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Place:

London

Date:

1905

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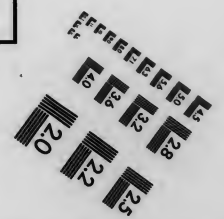


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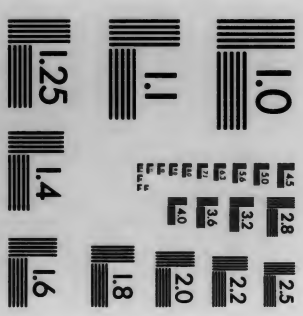
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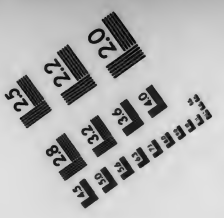
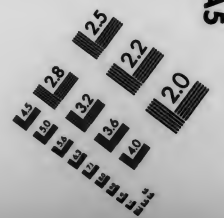
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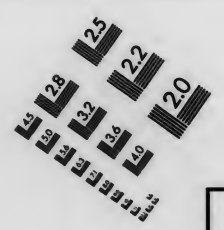
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VOL. XLI.

THE ACCOUNTS OF TRUSTEES, LIQUIDATORS, AND RECEIVERS

BY

SIDNEY STANLEY DAWSON.

F.C.A., F.C.I.S., F.S.S.

(of the firm of Dawson, Langley & Chevalier, Chartered Accountants, Liverpool.

Author of "The Accountant's Compendium," &c., &c.

ASSISTED BY

HARRY ROBERT GRAVES.

A.C.A.

(also of the firm of Dawson, Langley & Chevalier, Chartered Accountants, Liverpool.

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EDITOR'S PREFACE.

THE object of the series of handbooks that is being published under heading of **THE ACCOUNTANTS' LIBRARY** is to provide, at a reasonable price, detailed information as to the most approved methods of keeping accounts in relation to all the leading classes of industry whose books call for more or less specialised treatment. No such series has hitherto been attempted; but there exist, of course, numerous separate works dealing with the accounts of one particular class of undertaking. These separate works are, however, for the most part either too expensive, or too superficial to answer the purpose that is particularly aimed at by **THE ACCOUNTANTS' LIBRARY**, which is intended to supply the student with that specialised information which he may require, while at the same time affording to the trader, banker, or manufacturer who is not in a position to secure the fullest information for his purpose, knowledge which can hardly fail to be of the very greatest assistance to him in the correct keeping of his accounts, upon a system specially adapted to his requirements, and therefore involving a minimum expenditure of labour. It is expected that the series will also be found of material assistance to bookkeepers of all classes.

Without aiming at giving an exhaustive account of the manner in which each separate business is conducted, the technical points in connection with each industry will receive as much attention as is necessary in order fully to elucidate the system of accounts advocated, while each volume will be the work of one who has made that particular class of accounts more or less a speciality. It is obvious, however, that to enable the necessary ground to be covered in the space available, it is incumbent to assume upon the part of the reader a certain knowledge of general bookkeeping. The extent of the knowledge assumed will vary according to the nature of the class of accounts considered. For example, in the volumes on "Bank Accounts" and "Shipping Accounts," a thorough acquaintance with ordinary double-entry bookkeeping is not unnaturally assumed; but in the case, for instance, of "Auctioneers' Accounts," "Domestic Tradesmen's Accounts," and other similar volumes, such explanations are included as will enable the ordinarily intelligent reader fully to grasp the methods described, even although his knowledge of bookkeeping may be of an elementary description. These explanations are, doubtless, superfluous as far as accountants are concerned, but are necessary to make the volumes of value to the majority of those specially engaged in these particular industries.

To subscribers for the whole series it may be added that, when completed, it will form a most valuable and practically complete library, dealing, at the hands of specialists, with practically every class of accounts, and illustrating the application

of the theory of double-entry as described in general works on bookkeeping.

The first series (of twenty volumes) has already been completed, and particulars of the subjects dealt with will be found on p. i. A second series (which will comprise about thirty more volumes) is now in progress, which when issued will complete the scheme. Many of these have already been arranged for, but the Editor will be glad to receive suggestions and offers from accountants of experience for the undertaking of volumes not yet announced.

34 Moorgate Street,

London, E.C.

June 1903.

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THE ACCOUNTS OF TRUSTEES, LIQUIDATORS, & RECEIVERS.

CHAPTER I.

INTRODUCTORY.

APART from the truism that the primary object of all good account-keeping is to record as fully and as clearly as possible the facts with which it deals, the chief care of the accountant in regard to the accounts of his stewardship whether as Trustee, Liquidator, or Receiver, will be to comply with the regulations made by Parliament and/or the particular authority having supervisory jurisdiction over his office.

Trustees in Bankruptcy and under Deeds of Arrangement.—

The accounts of Trustees in Bankruptcy are regulated by the Bankruptcy Act, 1883, and the Rules thereunder, and the Bankruptcy Act, 1890, provides for the submission of annual accounts by Trustees under Deeds of Arrangement.

Liquidators.—

The Companies (Winding-up) Act, 1890, prescribes the accounts to be kept and filed by the Liquidator of a company being wound up under an order of the Court, and confers certain powers upon the Board of Trade, in pursuance of which authority the Board has drawn up rules which virtually assimilate the compulsory liquidation procedure with that of bankruptcy.

The few points of difference between Bankruptcy and Liquidation procedure will be referred to throughout the work in their appropriate places.

Although accounts are not required by the Board of Trade from the Liquidator of a company which is being wound up voluntarily, the Liquidator of *every* company (whether the liquidation be compulsory, under supervision, or voluntary), where the winding-up is not concluded *within one year* after its commencement, must submit certain accounts to the Registrar of Joint Stock Companies. This subject is treated in the chapter entitled "Pending Liquidations"; meanwhile it may be stated generally that the requirements as to these accounts are somewhat similar to those made in regard to the accounts of Trustees under Deeds of Arrangement.

Special Managers.—

The regulations as to accounts of Special Managers are identical in bankruptcy and in company liquidation, and will be found at the end of the chapters dealing respectively with "Trustees in Bankruptcy" and "Liquidators in Compulsory Winding-up."

Receivers.—

Receivers, as a general rule, are accountable only to the authority appointing them, whether private individual, company, or Court. A statistical record of rents receivable and received is required by the Courts from Receivers appointed by them, but apart from this the form of account required is one of receipts and payments only.

A summary of the special regulations (referred to throughout the work) which govern the accounts of Trustees, Liquidators, and Receivers respectively is appended to each chapter for purposes of reference.

CHAPTER II.

ACCOUNTS OF TRUSTEES IN BANKRUPTCY.

BOOKS.

Record Book.—

THE Official Receiver, until a Trustee is appointed, and thereafter the Trustee, shall keep a book to be called the "Record Book," in which he shall record all minutes, all proceedings had, and resolutions passed at any meeting of creditors, or of the committee of inspection, and all such matters as may be necessary to give a correct view of his administration of the estate, but he shall not be bound to insert in the record any document of a confidential nature (such as the opinion of counsel on any matter affecting the interests of the creditors), nor need he exhibit such a document to any person other than a member of the committee of inspection. (Rule 285.) In particular the *debtor* is not entitled to inspect the Record Book. (*In re Solomons*, 1904.)

Note.—Where joint and separate estates are being administered together it would appear that *one* Record Book will be sufficient.

Cash Book.—

The Official Receiver, until a Trustee is appointed, and thereafter the Trustee, shall keep a book to be called the "Cash Book" (which shall be in such form as the Board of Trade shall from time to time direct), in which he shall (subject to the

provisions of the rules as to Trading Accounts) enter from day to day the receipts and payments made by him. (Rule 286.)

Note.—A separate Cash Book must, of course, be kept for *each* estate where joint and separate estates are being administered together.

Trading Account.—

Where the trustee carries on the business of the debtor he must keep a distinct account of the trading, and incorporate in the Cash Book the total weekly amount of the receipts and payments on such Trading Account. (Rule 308.)

The specimen forms which will be found throughout this chapter are to be filled up in accordance with the regulations issued by the Board of Trade for the guidance of Trustees.

These regulations include the following directions:—

METHOD OF WRITING UP CASH BOOK AND TRADING ACCOUNT.

Each receipt and payment should be entered in the Cash Book in such detail as will fully explain its nature. Payments for Rent, Salaries, Wages, &c., due at the date of the receiving order should be entered under the head of Preferential Payments, and carefully distinguished (by apportionment, if necessary) from similar payments which may arise or become necessary while carrying on trade; the latter should be entered in a separate Trading Account (Rule 308); Petty Expenses should be entered in the Estate Cash Book in sufficient detail to show that no estimated charges are made, and vouchers should, where possible, be obtained. All bank transactions, whether with local banks or the Bankruptcy Estates Account, should be duly entered in Bank columns.

The Cash Book must record the actual dates upon which all moneys are received on account of the estate, and the payments out should be entered as of the date when the cheques are issued, except in the case of dividends, which should be entered as of the date when the cheques are received, and the total amount of such dividends should be charged in the Cash Book in *one sum*. In the case of any sale by private contract, the account should show the name, address, and occupation of the purchaser, and the mode in which the amount of the purchase-money has been arrived at.

The Trustee is accountable for the proceeds of every auction sale authorised by him, and the gross proceeds must be collected and treated under the head of receipts, and the auctioneer's charges included amongst payments, when duly taxed.

Apportionments of Rates, Taxes, &c.

Where a parochial or other local rate is levied, payable by instalments, any of which fall due at a date which is subsequent to the date of the receiving order, only such instalments as were actually due at the date of the receiving order are payable in full under the terms of the Preferential Payments in Bankruptcy Act, 1888. Rates, or instalments of rates, are only payable for the period during which the premises in respect of which the claim is made are in the *actual occupation* of the debtor or the Trustee. Claims for gas and water supplied prior to the receiving order do *not* come within the terms of Preferential Payments in Bankruptcy Act, 1888, and are not payable in full, except in cases where the authorities have power to recover the amount due, in the same way in which a landlord can recover rent in arrear—that is, by way of distress without legal process; in which event the claim may be paid, provided the property available for distress is of *sufficient value*. Tithes are *not* payable in full under the Preferential

Payments in Bankruptcy Act, 1888, and should only be so paid where, after the prescribed notice, there is property of the debtor upon which distress can be levied. Not more than *two years'* tithes are recoverable by distress.

Only those taxes which have been assessed on the debtor up to the 5th day of April next *before* the date of the receiving order are payable in full, subject to the under-mentioned exceptions:—

(1) Where a receiving order is made *on or after the 1st of December* in the year of assessment.

(2) Where a receiving order is made prior to 1st December, and the Official Receiver or Trustee *remains in possession* of the premises assessed *until the 1st January* next following.

In the two foregoing cases taxes are payable up to the 5th April *next following* the date of the receiving order, and must be treated as secured (*i.e.*, preferential) if on or after the 1st January in the year of assessment there are on the premises sufficient goods on which execution might be levied; otherwise the debts are unsecured, but the collector may prove and rank for dividend in respect of them.

(3) Where the business is disposed of as a *going concern* the purchaser is to be allowed the proportion of income tax (Schedule A) and land tax for the current year to the date of completion of the purchase, and *the purchaser will be held liable* for the taxes for the whole year.

(4) As to income tax under Schedules B, D, and E, the authorities will forego all claims on receipt of an affidavit from the debtor, certified by the Official Receiver or Trustee, that

the debtor has made no income taxable under any of these schedules.

N.B.—Even though no profits have been made, if the Trustee or the debtor has *collected* income tax during the particular year of assessment (*e.g.*, by deduction on payment of loan interest), such tax must be paid over to the Revenue Authorities.

Basis of Trustee's Remuneration.—

The Trustee's remuneration must be by way of percentage, one part being calculated on the assets realised, and one part on the amount distributed in dividend. (1883 Act, Section 72.) In calculating the percentage payable on the amount realised,

- (a) Assets realised by the Official Receiver,
- (b) Sums paid to secured creditors in respect of their securities,
- (c) Premiums on life policies,
- (d) Moneys expended in carrying on the business,

should be deducted from the total receipts. The percentage payable on the amount distributed in dividend should not be charged until the dividend is in course of payment.

The cost of giving security must be borne by the Trustee personally, unless the Committee of Inspection specially authorise him to charge it against the estate.

Where the Trustee has been appointed by the Board of Trade his remuneration will be such as the Board of Trade determines (Rule 307), and the cost of the guarantee bond will be payable by the Trustee personally, unless otherwise specially sanctioned.

The Trustee's remuneration is *not* a taxable charge.

Expenses of declaring Dividends on Joint and Separate Estates.—

Where joint and separate properties are being administered, dividends of the joint and separate properties shall, subject to any order to the contrary that may be made by the Court on the application of any person interested, be declared together; and the expenses of and incident to such dividends shall be fairly apportioned by the Trustee between the joint and separate properties, regard being had to the work done for, and the benefit received by, each property. (1883 Act, Section 59.)

RE.....
In the Court, holden at..... No..... 190..

ESTATE CASH BOOK.

Date of Receiving Order.....
Date of Trustee's Appointment.....

NOTES.

Particulars of each receipt or payment should be so fully entered in this book as sufficiently to explain its nature, and in the case of payments for Rent, Rates, Taxes and Wages, the period for which the payment is made should be clearly stated.

All Bank transactions, whether with Local Banks or Bankruptcy Estates Account, should be duly entered in Bank Columns, save only when Local Banks are used for purposes of transmission to the Bankruptcy Estates Account, in which case the payments to the latter account alone should appear in the Bank columns.

When a business is carried on, a Trading Account should be kept as a distinct account and the *weekly totals* of receipts and payments respectively should alone be entered in this book (Rule 308).

Distinct accounts are to be kept and rendered of the joint and separate estates (Rule 293).

The following is an extract from Table A of the Scale of Fees and Percentages, as to the stamp duty payable on audit:—

"On one copy of the Cash Book, showing assets realised, forwarded by the Official Receiver or Trustee to the Board of Trade, a fee according to the following scale on the gross amount of the assets realised and brought to credit, viz.: £1 on the first £100, or fraction of £100, up to £5,000, and 10s. on every £100, or fraction of £100, beyond £5,000. Provided that, where a fee has been taken on an application under section 18 or 23, seven-eighths of the amount thereof shall be deducted from this fee."

NOTE.—In calculating this duty the Trustee should deduct from the gross realisations any payments made to secured creditors, or in respect of carrying on the trade or business.

Trustees will find further information as to audit of accounts in Tr. Circular No. 4, issued to each Trustee on his first appointment in Bankruptcy.

RECEIPTS.

PAYMENTS.

[illegible]

PAYMENTS.

COSTS OF REALISATION											
Board of Trade and Court Fees			Law Costs of Petition (including £5 Stamp)			Law Costs after Receiving Order			Commission on Realisation and Distribution		
									Charges of Auctioneer, Accountant, Shorthand Writer, &c., as taxed		
									Notices in <i>Gazette</i> and Local Paper		
									Incidental Expenses including Possession		
Allowance to Debtor			Preferential Creditors (Section 40) and Rent			Payments to redeem Securities			Dividends Paid		
Other Payments											
£	s	d	£	s	d	£	s	d	£	s	d
										</	

CERTIFICATE OF THE COMMITTEE OF INSPECTION.

CERTIFICATE OF THE COMMITTEE OF INSPECTION.

We, the undersigned, Members of the Committee of Inspection in the matter of X. Y. Z., a bankrupt, hereby certify that we have examined the foregoing account with the Vouchers, and that to the best of our knowledge and belief the said account contains a full, true, and complete account of the Trustee's Receipts and Payments on account of the estate.

Dated this.....day of.....190 ..

Committee of
Inspection.

No. 131.—Profit and Loss Account (Trading Account).(1) High Court of
Justice, or County
Court of —, holden
at —.

In the (1)

Court of

IN BANKRUPTCY.

No. of 1

Re

Dr.		PROFIT AND LOSS ACCOUNT.		Cr.	
		£	s d		£ s d
Stock on hand on day of	1			Sales	
Purchases				Other Receipts, if any	
Trade Expenses, viz.:				Stock on hand on day of	1
Rent and Taxes ..	£ s d				
Wages					
Miscellaneous					
Balance, being Profit					

Trustee.

Date

NOTE.—This account to be submitted when the Committee of Inspection require, and in any case at the end of the trading business carried on by the Trustee.

BANKING TRANSACTIONS.**Lodgments.—**

An account called the Bankruptcy Estates Account is kept by the Board of Trade with the Bank of England, and all moneys received by the Board of Trade in respect of proceedings under the Bankruptcy Acts are paid to that account.

Except where a "Local Bank Account" is authorised (see *infra*), every Trustee in Bankruptcy shall, in such manner, and at such times as the Board of Trade with the concurrence of the Treasury direct, pay without any deduction the money received by him, and remit all current bills of exchange, to the Bankruptcy Estates Account at the Bank of England, and the Board of Trade shall furnish him with a certificate of receipt of the money so paid. (1883 Act, Section 74.)

The manner of payment prescribed will be seen from the form, which consists of an advice note to the Board of Trade and a covering letter to be sent with the remittance to the Bank of England. The covering letter is then sent on by the Bank of England to the Board of Trade, and is eventually returned to the Trustee, with a certificate that the sum mentioned in the receivable order has been credited to the Bankruptcy Estates Account.

Note.—Halfpence should not be included in remittances.

THE BANKRUPTCY ACTS, 1883 & 1890.

RECEIVABLE ORDER.

To be transmitted with remittance to Bank of England.

No. _____ 190 _____
 Re _____
 Court _____ No. _____

Amounts	
£	s d
Cheques drawn on	
Total of Cheques	
Notes	
Gold	
Total	

Sir,
 Mr. _____ Trustee,
 at _____ is authorised to pay to the Credit of
 the Bankruptcy Estates Account the sum of _____
 and I am to request you to receive the same
 accordingly.
 I am, Sir,
 Your obedient Servant,
 _____ Assistant Secretary.

The Agent of the Bank of England,
 Law Courts Branch,
 Temple Bar,
 London, W.C.

Address to which Certificate of
 Receipt should be forwarded } _____

It is particularly requested that the Trustee will write his Name and
 Address clearly and legibly.
 Letters addressed to the Bank of England must be prepaid.

BOARD OF TRADE.

I hereby certify that the above-mentioned sum has been credited to the Bank-
 ruptcy Estates Account at the Bank of England.

(Assistant Secretary,
 Board of Trade.
 _____ 190 _____

THE BANKRUPTCY ACTS, 1883 & 1890.

County Court of _____
 _____ 190 _____

Sir,

I have to acquaint you that I have remitted
 to the Bank of England (Law Courts Branch), the
 sum of _____ (as
 detailed in the margin) to be placed to the Credit of
 the Bankruptcy Estates Account.

Particulars of the Estates and respective amounts
 to be credited are stated below.

I am, Sir,

Your obedient Servant,

Signature _____

Address in full _____

Trustee.

Amounts	
£	s d
Cheques drawn on	
Total of Cheques	
Notes	
Gold	
Total	

* Distinguishing between your
 own cheques and those received
 on account of the estate, but not
 realised by you.

The Assistant Secretary,

Finance Department,

Board of Trade, London, S.W.

Court	No. of Case	Estates on account of which remittance is made (State names of Bankrupts in full; and be par- ticular to distinguish between joint and separate estates)	Amount £ s d
		LEDGER FOLIO.....	
		Total remittance, as stated above	

In each case the amount stated above should be the exact total received on account of the
 estate specified.

Remittances by Trustees resident in the Country to be made by draft payable in London at
 sight or on demand.

All cheques to be payable to the Bank of England "or Order," and crossed Bank of England.

Penalties for Improper Retention of Moneys by Trustee.—

If a Trustee at any time retains for more than ten days a sum exceeding £50, or such other amount as the Board of Trade in any particular case may authorise him to retain, then, unless he explains the retention to the satisfaction of the Board of Trade, he must pay interest on the amount so retained in excess at the rate of twenty pounds per centum per annum, and has no claim for remuneration: he may be removed from his office by the Board of Trade, and is liable to pay any expenses occasioned by reason of his default. (1883 Act, Section 74.) A Trustee in a bankruptcy or under any composition or scheme of arrangement must not pay any sums received by him as Trustee into his private banking account. (1883 Act, Section 75.)

"Local" Bank.—

If it appears to the Committee of Inspection that, for the purpose of carrying on the debtor's business, or of obtaining advances, or because of the probable amount of the cash balance, or if the Committee satisfies the Board of Trade that for any other reason it is for the advantage of the creditors that the Trustee should have an account with a local bank, the Board of Trade, on the application of the Committee of Inspection, authorises the Trustee to make his payments into and out of such local bank as the Committee may select. Such account must be opened and kept by the Trustee in the name of the debtor's estate; and any interest receivable in respect of the account is part of the assets of the estate. (1883 Act, Section 74.) Upon every application by a Committee of Inspection to the Board of Trade for a local banking account a fee of £1 is payable, and upon every order of the Board of Trade for such local Bank Account a fee of £2 is payable. (Order as to Fees and Percentages, dated 18th December 1890.) Section 144 of the 1883 Act exempts from stamp duty, except in respect of fees under the Act, all documents relating solely to the property

of any bankrupt, or to any proceeding under any bankruptcy. Therefore *unstamped cheque books* should be obtained for the purpose of drawing cheques on local banks.

Withdrawals from Bankruptcy Estates Account.—

All necessary disbursements made by a Trustee on account of an estate *to the date of his application for release* are paid to him out of money standing to the credit of the estate in the Bankruptcy Estates Account, on application to the Inspector-General in Bankruptcy, on Form No. Tr. 9.

No. Tr. 9.

Notice to Board of Trade
by a Trustee that
a cheque is required.

**FOR REPAYMENT OF
ADVANCES.**

BANKRUPTCY ESTATES ACCOUNT.

LEDGER FOLIO.....

Re _____ Court _____ No. _____
Date _____

SIR,

I hereby certify that the undermentioned payments amounting to
£ : : on account of the above Estate have been made by me out of my own
moneys, and such payments are now chargeable against the said Estate, and I
have to request the same may be repaid to me.

The balance shown by my books as standing to the credit of the Estate in
the Bankruptcy Estates Account at the Bank of England is £ : : .

Yours obediently,

The Inspector-General in Bankruptcy, _____ Trustee's Signature.
1 Horse Guards Avenue, _____ Address to which
Whitehall, _____ Cheque should
London, S.W. _____ be forwarded

Name of Person to whom Pay- ment has been made	Consideration	No. of Voucher	Date of Payment	Amount
				£ s d

(NOTE.—This Form should not be accompanied by Vouchers, and it must be distinctly understood that any payments made on this application are made on the sole responsibility of the Trustee, and are in no way taken as sanctioning the same or precluding disallowance should they be found to be irregular on the audit of the Trustee's Accounts.)

Any expense properly incurred by the Trustee *after applying for, but before obtaining*, his release, is repaid to him by the Official Receiver out of any funds available for the purpose.

Cheques to the order of the payee for sums which become payable on account of the estate may be obtained by the Trustee on application by him on Form Tr. 7:—

No. Tr. 7.
Notice to Board of Trade
by a Trustee that
cheques are required.

BANKRUPTCY ESTATES ACCOUNT.

LEDGER FOLIO.....

Re _____ Court _____ No. _____

Date _____ 190 .

SIR,

I beg to inform you that it appears by my Books that the sum of
£ : : stands to the credit of the above Estate with the Bankruptcy
Estates Account at the Bank of England, and that the sum of £ : :
is required as set forth below.

Yours obediently,

The Inspector-General in Bankruptcy,
1 Horse Guards Avenue,

Whitehall,

London, S.W.

Trustee's Signature.

Address to which

Cheque should
be forwarded

*Name, Occupation, and Address of Person to whom due	State General Nature of Consideration	Amount
		£ s d

* In all cases of Payment to Executors, Trustees, Representative Officials, &c., the name or names should be inserted in the application.

NOTE.—This form should be sent direct to the Board of Trade, 1 Horse Guards Avenue, London, S.W. It should not be accompanied by vouchers, and it must be distinctly understood that any payments made in accordance therewith are made on the sole responsibility of the Trustee, and are in no way to be taken as sanctioning the same or precluding disallowance should they be found to be irregular on the audit of the Trustee's Account.

Withdrawal of Dividends.—

The Board of Trade require about ten days' notice for the preparation of cheques (and money-orders for small amounts) for the payment of dividends. The application to the Board of Trade takes the form of a list of admitted proofs on form No. 122A, duly certified by the Court:—

No. 122A.

**Certified List of proofs
filed under Rule 225
Bankruptcy Rules,
1886, and application
for issue of cheques
for dividend on Bank-
ruptcy Estates Ac-
count.**

BANKRUPTCY ESTATES ACCOUNT.

LEDGER FOLIO.....

Re _____ Court No. _____ 190 .

I hereby certify that the following list has been compared with the proofs filed, and that the names of the Creditors and the amounts for which the proofs are admitted are correctly stated.

*If the proceedings are in a County Court, to be signed by the Registrar. If the proceedings are in the High Court, to be signed by the Trustee.

* (Signature)

Dated the _____ day of _____ 190

I certify that by my Books the sum of £ stands to the credit of the above Estate with the Bankruptcy Estates Account at the Bank of England, and that the sum of £ is required to meet the undermentioned Dividends, on proofs which have been duly made and admitted to rank for Dividend upon the Estate, and I have to request that orders for payment may be issued to me.

The Dividend is payable on the _____ day of _____, 190____, and Notice of declaration thereof was forwarded to the Board of Trade, for insertion in *London Gazette*, on the _____ day of _____, 190____.

Date _____ 190 _____ Trustee _____

1 Address to which Cheques and
2 Money Orders should be sent.

TO THE BOARD OF TRADE.

No.	Surname	Christian Name	Town on which Post Office Money Order should be drawn	Amount of Proof £ s d	Sums under £2 £ s d	Sums of £2 and above £ s d

As to payment of dividends out of a "local bank" see page 44.

Certificate of Balance in Bankruptcy Estates Account.—

The Inspector-General certifies to the balance standing to the credit of an estate in the Bankruptcy Estates Account, on receiving from the Trustee a statement of the balance shown by the Bank columns of the Estate Cash Book. (Board of Trade Regulations.) There does not appear to be any fee payable.

Transfer of Separate Estate to Joint Estate.—

Where a receiving order has been made against debtors in partnership, no transfer of a surplus from a separate estate to the joint estate, on the ground that there are no creditors under such separate estate, shall be made until notice of the intention to make such transfer has been gazetted. (Rule 293.)

The following is a suitable form for such notice:—

Notice of Transfer of Separate Estate to Joint Estate.

(1) High Court of Justice, or County Court of _____, holden at _____, In the (1) Court of

IN BANKRUPTCY.

Re

(2) Here insert "the Debtor" or "a Creditor" or "the Official Receiver" or "the Trustee." Ex Parte (2)

NOTICE is hereby given that there being in the

hands of the Trustee in the above bankruptcy a surplus

estimated at £

(3) Name of separate partner. arising from the separate estate of (3)

one of the bankrupts, and there being no separate creditors of such bankrupt, it is the intention of such Trustee, at the expiration of _____ days from the appearance of this notice in the *Gazette*, to transfer such surplus to the credit of the joint estate in the said bankruptcy.

(Signed)

Trustee.

AUDIT.

By Committee of Inspection (Trading Account).—

The Trading Account shall from time to time, and not less than once in *every month*, be verified by affidavit of the Trustee, and the Trustee shall thereupon submit such account to the Committee of Inspection (if any), or such member thereof as may be appointed by the Committee for that purpose, who shall examine and certify the same. (Rule 308.) The form of Trading Account, with certificate attached, is No. 130 (*supra*), and the form of affidavit is No. 132 as follows:—

No. 132.—*Affidavit verifying Trustee's Trading Account.*

THE BANKRUPTCY ACTS, 1883 & 1890.

(1) High Court of
Justice, or County
Court of —, holden
at —.

In the (!)

Court of

IN BANKRUPTCY.

No. of 190

Re

I,

of

the Trustee of the property of the above-named Bankrupt, make oath and say that the account hereto annexed is a full, true and complete account of all money received and paid by me, or by any person on my behalf, in respect of the carrying on of the trade or business of the Bankrupt; and that the sums paid by me as set out in such account, have, as I believe, been necessarily expended in carrying on such trade or business.

Sworn at

this day of

190

Before me,

Trustee.

By Committee of Inspection (Cash Book, &c.)—

The Trustee shall submit the Record Book and Cash Book, together with any other requisite books and vouchers, to the Committee of Inspection (if any) when required, and not less than once *every three months*. (Rule 287.)

The Committee of Inspection shall, not less than once every three months, audit the Cash Book and certify therein, under their hands, the day on which the said book was audited. (Rule 288.) The form of certificate prescribed is shown on the specimen form of Estate Cash Book (*supra*).

Where there is no Committee of Inspection the Trustee should forward the accounts for audit to the Board of Trade as soon as they are due. Where there is a Committee, the Trustee should summon a meeting immediately the accounts become due, so that they may be audited before being forwarded to the Board of Trade, but the accounts must not be delayed in consequence of any neglect on the part of the members of the Committee to attend such meeting; in such event a memorandum should be inserted in the Cash Book to the effect that the meeting was duly summoned, but that a quorum was not present. The accounts should then be forwarded to the Board of Trade.

By the Board of Trade (Cash Book, &c.)—

Every Trustee shall, at the expiration of *six months* from the date of the receiving order, and at the expiration of every succeeding six months thereafter, until his release, transmit to the Board of Trade a copy of the Cash Book for such period (in duplicate), together with the necessary vouchers and copies of the certificates of audit by the Committee of Inspection. He shall also forward, *with the first accounts*, a summary of the debtor's statement of affairs, in such form as the Board of Trade

may direct, showing thereon, in red ink, the amounts realised, and explaining the cause of the non-realisation of such assets as may be unrealised. When the estate has been fully realised and distributed, or if the adjudication is annulled, the Trustee shall *forthwith* send in his accounts to the Board of Trade, although the six months may not have expired. (Rule 289.)

The "duplicate" copies of the Estate Cash Book prescribed by the rule consist of (1) a complete copy (with all Analysis columns), which is retained by the Board of Trade; and (2) a copy containing "Bank" and "Total" columns only. After the audit this is forwarded to the local Court for registration.

Note.—The copy of Cash Book forwarded at the first audit will incorporate the receipts and payments of the Official Receiver, who accounts to the Trustee upon his appointment.

The Estate Cash Book must be verified by the affidavit of the Trustee on the following form:—

No. 129.—*Affidavit verifying Trustee's Account.*

THE BANKRUPTCY ACT, 1883.

(1) High Court of
Justice, or County
Court of —, holden
at —.

In the (1) Court of

IN BANKRUPTCY.

No. of 190

Re

I,

of

the Trustee of the property of the above-named Bankrupt,
make oath and say:

(2) If no receipts or
payments, strike out
the words in italics.

That (2) the account hereunto annexed marked B, contains a
full and true account of my receipts and payments on account of
the Bankrupt's Estate from the day of
to the day of
inclusive, (2) and that I have not, nor has any other person
by my order or for my use during such period, received any
moneys on account of the said estate (2) other than and except
the items mentioned and specified in the said account.

Sworn at

this day of

190

Before me

A 2/- bankruptcy stamp must be attached to the affidavit.

The dates inserted in the various affidavits must cover the entire period from the Trustee's appointment to the date of his application for release. The terms of the affidavit make it incumbent on a Trustee to account for moneys received by his solicitor, or by any other person on his behalf. Where the Trustee has not during the period for which accounts are required received or paid any moneys on behalf of the estate, he is to forward an affidavit of "no receipts or payments" (Rule 291), and the Trustee must himself provide the stamp therefor and pay the affidavit fee, pending the receipt of assets. (*Re Rowlands*, 1887.)

Where more than one Trustee has been appointed, the accounts should be verified by each Trustee.

In practice the affidavit of "no receipts or payments" is seldom required, for even in those cases where no assets have come to the Trustee by virtue of his office, he will in almost every period for which the return is required have to make some small disbursements. Where it is unlikely that any assets will come to the hands of the Trustee he may have obtained an undertaking before accepting office that these disbursements will be repaid to him by the parties for whom he is acting; but while receipts by way of reimbursement from such sources are not deemed to be on behalf of the estate, the payments actually made by the Trustee are so considered.

Upon being sworn to an affidavit verifying his accounts, the Trustee should see that the accounts are duly marked by the Commissioner or other person administering the oath.

The Trading Account, or Accounts (if any), together with vouchers, and the affidavit, or affidavits, verifying same in accordance with Rule 308 (*supra*), are required, also:—

- (a) Special Manager's Account (if any), with vouchers and affidavit.
- (b) Receipts for cash paid and allocaturs for taxed costs.

Note.—All bills and charges of solicitors, managers, accountants, auctioneers, brokers, and other persons not being Trustees shall be taxed by the prescribed officer, and no payments in respect thereof shall be allowed in the Trustee's accounts without proof of such taxation having been made. (1883 Act, Section 73.)

- (c) Vouchers in support of assets realised, such as Auctioneer's "Sale Account" and "Marked Catalogue" (if any).
- (d) Record Book.
- (e) Bank Pass Book (where a local Bank Account has been authorised), and certificate of the balance from the bank manager.
- (f) Order on Bankruptcy Estates Account (Form No. Tr. 4 *infra*) for payment to Board of Trade of duty on assets realised.
- (g) A report on the position of the estate (Form No. Tr. 13, *infra*) must be sent with *every* account; and with the *first* account only there must be submitted a copy of the "front sheet" of the Statement of Affairs, and also of Schedules B, C, F, G, and H attached thereto, duly certified by the Court. (See Rule 289 *supra*.)

No. Tr. 4.
Request to Board of
Trade to charge *ad*
valorem duty on Audit
and Release.

THE BANKRUPTCY ACTS, 1883 & 1890.

BANKRUPTCY ESTATES ACCOUNT.

LEDGER FOLIO.....

Re _____ Court _____ No. _____ of 190 .

I certify that the sum of £ : : is required for the payment of the undermentioned *ad valorem* duty payable in money under the Treasury Order of the 2nd February 1899, and I hereby request that the said sum may be charged against the Estate and credited to the Board of Trade Fees Account.

The balance standing to the credit of the Estate in the Bankruptcy Estates Account as shown by my books is £ : : .

Trustee.

To the Inspector-General
in Bankruptcy,
1, Horse Guards Avenue,
London, S.W.

Address _____

Date _____

Nature of Duty	Amount	Entered
	£ s d	
On copy of Cash Book forwarded for Audit		
On application for release		
Total		

Extract from Scale of Fees—Table A :—

On one copy of the Cash Book, showing assets realised, forwarded by the Official Receiver or Trustee to the Board of Trade, a fee according to the following scale on the gross amount of the assets realised and brought to credit, viz.: £1 on every £100 or fraction of £100 up to £5,000, and 10s. on every £100 or fraction of £100 beyond £5,000. Provided that, where a fee has been taken on an application to approve a composition or scheme of arrangement, seven-eighths of the amount thereof shall be deducted from this fee. On every application for release by trustees in non-summary cases a fee of 2s. 6d. on every £100 or fraction of £100 of assets realised and brought to credit.

NOTE.—In calculating the amount upon which the above *ad valorem* duties are payable, sums paid to secured creditors, and trading payments, should be deducted from the gross receipts.

NOTE.—This form is printed with copyable ink, and a press copy can, if desired, be taken.

No. Tr. 13.

Audit No. _____

Reg. No. _____

Re _____

REPORT OF TRUSTEE ON POSITION OF ESTATE AT THE AUDIT, DUE

Assets as per Statement	Realised	Estimated Value Outstanding	Remarks
	£ s d	£ s d	
Cash at Bankers			
" in hand			
Property, viz.:—			
(a) Stock-in-Trade			
(b) Machinery, &c.			
(c) Farm Stock, &c.			
(d) Furniture			
(e) Other Property, viz.:—			
Book Debts—Good			
" Doubtful and Bad			
Bills of Exchange			
Surplus from Securities			
Totals			

Date of Receiving Order _____ Date of First Meeting _____
Date of Trustee's Certificate _____ Date when First Dividend due
under Section 58 (2), viz., four months after First Meeting _____
Balance now at credit of Estate £ _____

DIVIDENDS.

When Declared	What declared per £	If not declared, state reason. (If delayed by resolution of Committee, state grounds on which such resolution adopted, and forward copy)*	State when declaration will probably be effected

LEGAL PROCEEDINGS AUTHORISED.

Date of Resolution authorising employment of Solicitors	Name of Solicitors	Nature of work authorised to be done*	Limit of Costs authorised (if any)

If any actions or other proceedings are delaying the close of the Estate, state shortly the nature and probable duration thereof.*
If application for release not yet made, state reason and when Trustee expects to be in a position to apply for same.
State shortly any other circumstances tending to delay the winding-up of the Estate, or affecting its realised value or the costs of its realisation.

To _____ Trustee.
The Inspector-General in Bankruptcy, Date _____ 19 .
1 Horse Guards Avenue, Whitehall, London, S.W.

* Where the above space is not sufficient for the answer, it may be written on the back, or on a separate sheet.

By Board of Trade on Declaration of Dividend and on Application for Release.—

The final audit of the Board of Trade must be completed before the Trustee can obtain his release, so that before making application for such release the Trustee must submit for audit the following (in addition to the foregoing documents):—

- (1) Form of statement (or statements) accompanying notice of dividend (*infra*).
- (2) Form of statement accompanying notice of intention to apply for release (*infra*).
- (3) Creditors' receipts for dividends.

By Rule 232 (3) a Trustee on proceeding to declare a dividend shall give notice to the Board of Trade (in order that same may be gazetted), and shall also send a notice of dividend to each creditor whose proof has been admitted, accompanied by a statement showing the position of the estate.

By Rule 309, a Trustee, before making application to the Board of Trade for his release, shall give notice of his intention so to do to all the creditors of the debtor *who have proved* their debts, and to *the debtor*, and shall send with such notice a summary of his receipts and payments as Trustee: Provided that where such application is made upon the Trustee ceasing to act by reason of a composition having been approved under Section 23 of the Act, such notice and summary shall be sent to the *debtor only*.

The form of notice of intention to apply for release will be found on page 39. The form of statement of account is the same in each instance (No. 122), the statement accompanying notice of intention to apply for release being a summary of the

whole realisation, and the statement despatched on declaration of a second or subsequent dividend being a *resumé* of the administration to the date of such dividend. It follows that if the estate is distributed in a single dividend, and notice is at the same time given to the creditors that the Trustee is about to apply for his release, only one statement of account need be despatched, but the heading of the form should read, "Statement showing the position of the estate at date of declaring first and final dividend, and of application for release."

Local Investigation by Board of Trade.—

The Board (of Trade) may . . . direct a local investigation to be made of the books and vouchers of the Trustee. (1883 Act, Section 91 (3).)

THE BANKRUPTCY ACTS, 1883 & 1890.

(1) High Court of Justice, *or* County Court of _____, holden at _____, In the (1) _____ Court of _____ IN BANKRUPTCY. No. _____ of 1 _____ IN THE MATTER OF _____ of _____ under Receiving Order dated _____ day of _____ I STATEMENT showing the position of the estate at date of _____ declaring application for Release. dividend.

<i>Dr.</i>		<i>Cr.</i>
	Estimat'd to produce per Debtor's Statement	Receipts
To Total Receipts from date of receiving order, <i>viz.</i> —(ii)	£ s d	£ s d
Receipts per Trading Account		By Board of Trade and Court Fees (including stamp of £5 on petition) ..
Other Receipts		Law Costs of Petition
Total		Other Law Costs.. .. .
		Trustee's Remuneration, as fixed by the (b) <i>viz.</i> —
		per cent. on £
		assets realised
		per cent. on £
		assets distributed in dividend
		Special Manager's Charges
		Person appointed to assist Debtor under s. 70 of the Bankruptcy Act, 1883
		Auctioneer's Charges as taxed
		Other taxed Costs
		Costs of Possession
		Costs of Notices in <i>Gazette</i> and local papers
		Incidental Outlay
		Total Cost of Realisation
		Allowance to Debtor
		Creditors, <i>viz.</i> :—
		(c) Preferential
		(c) Unsecured (d)
		dividend now declared of s. d. in the £ on £
		Dividends previously declared
		The Debtor's estimate of amount expected to rank for dividend was £
		Balance

By s. 72 (2) of the Bankruptcy Act, 1883, it is provided that "if one-fourth in number or value of creditors dissent from the resolution, or the bankrupt satisfies the Board of Trade that the remuneration is unnecessarily large, the Board of Trade shall fix the amount of the remuneration."

Assets not yet realised estimated to produce £

(c)

Creditors can obtain any further information by enquiry at the Office of the Trustee.
Dated this _____ day of _____

(a) State particulars under the several headings specified in the _____ Trustee,

(b) "Creditors" or "Committee of Inspectors" _____

Trade," or as the case may be.

(d) "1st," or as the case may be.

(e) Add any special remarks the

RE.—When this Statement accompanies a Declaration of

NOTE.—When this Statement accompanies a Declaration of a second or subsequent dividend, it shall incorporate the figures of the preceding statement or statements under their respective headings.

APPLICATION FOR RELEASE.

The notice to creditors and to the debtor that the Trustee is about to apply for his release must be in Form No. 138, which is as follows:—

No. 138.—*Notice to Creditors of intention to apply for Release.*

THE BANKRUPTCY ACTS, 1883 & 1890.

(i) High Court of Justice, or the County Court of—, holden at—
In the (1) Court of
IN BANKRUPTCY. No. of

Re

TAKE NOTICE that I, the undersigned ⁽²⁾

(2) "Trustee," or "late Trustee," Trustee of the property of the Bankrupt, intend to apply to the Board of Trade for my release, and further take notice that any objection you may have to the granting of my release must be notified to the Board of Trade within twenty-one days from the date hereof.

A Summary of my Receipts and Payments as Trustee is hereto annexed.

Dated this day of 190

To _____
Creditor. Trustee.

NOTE.—Section 52 of the Bankruptcy Act, 1883, enacts that "An order of the Board releasing the Trustee shall discharge him from all liability in respect of any act done or default made by him in the administration of the affairs of the bankrupt, or otherwise in relation to his conduct as Trustee, but such order may be revoked on proof that it was obtained by fraud or by suppression or concealment of any material fact."

I

Requirements of Board of Trade.—

The accounts to be forwarded to the Board of Trade before successful application can be made for release have been detailed *supra*, but it may be mentioned that the Trustee must also send:—

- (1) Formal application for release. (Form No. 139 *infra*.)
- (2) Affidavit verifying postage of notices of intention to apply for release. A 2s. bankruptcy stamp to be attached. (Form No. 102 *infra* is a general affidavit of postage of notices, and may be altered to suit special circumstances.)
- (3) Certificate by Trustee and Committee of Inspection (if any) as to realisation of all reasonably available assets. (*Note*.—If Trustee certifies in his formal application that *all* assets have been realised, this certificate will not be required.)
- (4) Form of Notice of Release for insertion in *Gazette*. A 5s. bankruptcy stamp to be attached. (Form No. 174 (12) *infra*.)
- (5) Order on the Bankruptcy Estates Account to credit to the Board of Trade 2s. 6d. per cent. on the assets realised and brought to credit. (Form No. Tr. 4, page 34.)
- (6) Statement of dividend (or dividends) declared, distinguishing between those claimed and those unclaimed.
- (7) Cheques for unclaimed dividends (if any).

Note.—It is important that the Trustee should make provision before declaring a final dividend for the various expenses incidental to his application for release—*e.g.*, the printing of, and postage on, notices, the Board of Trade fees, &c.

No. 139.—Application by Trustee to Board of Trade for Release.

THE BANKRUPTCY ACTS, 1883 & 1890.

(1) High Court of Justice, or the County Court of —, holden at —,

In the (1)

Court of

IN BANKRUPTCY.

No. of 1

Re

(2) "The Debtor" or "S. a Creditor" or "The Official Receiver" or "the Trustee."

Ex parte (2)

I,

the Trustee of the property of the Bankrupt, do hereby report to the Board of Trade as follows:—

1. That the whole of the property of the Bankrupt has been realised for the benefit of his Creditors, [and a dividend to the amount of shillings in the pound has been paid as shown by the statement hereunto annexed;]

[or That so much of the property of the Bankrupt as can, according to the joint opinion of myself and the Committee of Inspection, hereunto annexed in writing under our hands, be realised without needlessly protracting the Bankruptcy, has been realised, as shown by the statement hereunto annexed, and a dividend to the amount of shillings has been paid;]

(3) "Composition" or "Scheme."

[or That a (3) under Section 23 of the Act has been duly approved by the Court.]

2. I therefore request the Board of Trade to cause a report on my accounts to be prepared and to grant me a certificate of release.

Dated this day of 1 .

Trustee.

D 2

No. 102.—*Affidavit of Postage of Notices (General).*

(1) High Court of Justice *or*, County Court of —, holden at —. In the (1) Court of

IN BANKRUPTCY.

No. of 1

Re

(2) "The Debtor" *Ex parte* (2)
or "J. S. a Creditor"
or "the Official Receiver" *or* "the Trustee."

I,

of

(3) "Trustee" *or* (3)
 "Clerk to the Trustee."

in the above matter
 make oath and say as follows:—

1. That I did on the day of I
 send to each Creditor who has proved in this matter, and
 also to all the Creditors mentioned in the Debtor's Statement
 of Affairs, a Notice of (4)

(4) "The time and place of a General Meeting" *or* "adjourned General Meeting" *or* as the case may be.

in the form hereunto annexed marked "A."

2. That such Notices were addressed to such of the said Creditors who have proved their debts according to the addresses in their respective proofs, and to such as have not proved, according to their respective names and addresses appearing in the Statement of Affairs of the said Debtor.

3. That I sent the said Notices by putting the same into the Post Office at in the
 of before the hour
 of o'clock in the noon on the same day

Sworn at

this day of

190

Before me,

Exhibited to me this
 day of

190

Registrar.

No. 174. (12). BANKRUPTCY NOTICE FOR "LONDON GAZETTE."
 NOTICE OF RELEASE OF TRUSTEES.

Date of Release		Trustee's Description		Trustee's Address		Trustee's Name		No. of Matter		Court		Debtor's Description		Debtor's Address		Debtor's Name	
																Surname Christian Name	

Date

Upon a Trustee resigning, or being released or removed from his office, he shall deliver over to the Official Receiver, or, as the case may be, to the new Trustee, all books kept by him, and all other books, documents, papers, and accounts in his possession, relating to the office of Trustee (Rule No. 292), and his release shall not take effect until such delivery has been made. (Rule 310A.)

Unclaimed dividends must not be credited to the estate without the previous sanction of the Inspector-General in Bankruptcy. If they consist of cheques on the Bankruptcy Estates Account they must, on the expiration of six months from the date of issue, or on application by the Trustee for his release, if that event occurs earlier, be returned to the Assistant Secretary, Finance Department, Board of Trade.

If the dividend is paid through a local bank the Trustee should, upon the declaration of the dividend, forward to the Inspector-General in Bankruptcy a certified list of the proofs filed in Form 122B, together with an office copy of the list of proofs filed if the proceedings are in the High Court, and at the *expiry of six months* from the date of declaration of the dividend he should forward to the Inspector-General in Bankruptcy, for audit, vouchers for the dividends paid, and a list of those remaining unclaimed. He will then be furnished with a "Receivable Order," by means of which to pay the amount of the unclaimed dividends into the Bankruptcy Estates Account. (Board of Trade Regulations.)

THE BANKRUPTCY ACTS, 1883 & 1890.

<i>R₂</i>	No.	of 1
----------------------	-----	------

Ledger Folio,

(Signature) ⁽²⁾

Dated the day of 190 .

(2) If the proceedings are in a County Court, to be signed by the Registrar. If the proceedings are in the High Court, to be signed by the Trustee.

I hereby certify that a dividend of _____ in the £ has been declared, and that the creditors whose names are set forth below are entitled to the amounts set opposite their respective names.

Trustee.

Dated this day of 190
TO THE BOARD OF TRADE.

Surname	Christian Name	Amount of Proof	Amount of Dividend
		£ s d	£ s d

Copy of Cash Book.—

Any creditor who has proved his debt may apply to the Trustee for a copy of the accounts (or any part thereof) relating to the estate as shown by the Cash Book up to date, and on paying for the same at the rate of threepence per folio, he shall be entitled to have such copy accordingly. (Rule 314.)

The Trustee or Official Receiver shall, whenever required by any creditor so to do, furnish and transmit to such creditor by post a list of the creditors, showing in such list the amount of the debt due to each of such creditors. The Trustee or Official Receiver shall be entitled to charge for such list the sum of threepence per folio of seventy-two words, together with the cost of the postage thereof. (1890 Act, Section 16.)

Any creditor, with the concurrence of one-sixth of the creditors (including himself) may at any time call upon the Trustee to furnish and transmit to the creditors a statement of the accounts in Form 132A (see *infra*), up to date of such notice. The creditor must, however, deposit with the Trustee a sum sufficient to pay the costs of furnishing and transmitting the accounts, such sum to be repaid to him out of the estate, if the creditors or the Court so direct. The cost is to be calculated at the rate of threepence per folio for each statement where the creditors do not exceed ten, and where the creditors exceed ten one shilling per folio, for the preparation of the statement and the actual cost of printing. (1890 Act, Section 17, and Rule 315.)

No. 132a.—*Statement of Accounts under Section 17 of the Bankruptcy Act, 1890.*

In the IN BANKRUPTCY. <i>Re</i>	Court of	No.	of 1
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[illegible]

Signature _____

Dated the _____ day of _____ 19____

SPECIAL MANAGER'S ACCOUNTS.

Every special manager shall account to the Official Receiver, and such special manager's accounts shall be verified by affidavit in the prescribed form, and, when approved by the Official Receiver, the totals of the receipts and payments shall be added to the Official Receiver's accounts. (Rule 344.)

The prescribed form is a simple statement of receipts and payments, and the receipts and payments of the Official Receiver (including those of the special manager) are incorporated with the Trustee's accounts. The verified accounts of the special manager must be forwarded to the Board of Trade, together with the necessary vouchers, at the first audit of the Trustee's accounts.

Summary of Regulations Governing Accounts of Trustees in Bankruptcy.

BANKRUPTCY ACT, 1883.

Section.

- 40. Joint and Separate Estates.
- 41. Preferential Claim of Apprentice, &c.
- 42. Landlord's Power to Distrain.
- 58. Declaration and Distribution of Dividends.
- 59. Joint and Separate Dividends.
- 60. Provisions when calculating Dividends.
- 64. Allowance to Debtor.
- 72. Remuneration of Trustee.
- 73. Allowance and Taxation of Costs.
- 74.)
- 75.) Bankruptcy Estates Account Transactions.
- 76.)

BANKRUPTCY ACT, 1883.

Section.

- 78. Audit of Trustee's Accounts by Board of Trade.
 - 80. Trustee to keep proper Books.
 - 81. Annual Statement of Proceedings to Board of Trade.
 - 82. Release of Trustee.
 - 91. Control of Trustee by Board of Trade.
 - 144. Exemption of Deeds, &c., from Stamp Duty.
 - 162. Unclaimed Funds or Dividends.
-

BANKRUPTCY ACT, 1890.

Section.

- 15. Remuneration of Trustee.
 - 16. Trustee to furnish List of Creditors.
 - 17. Accounts on requisition of Creditors.
 - 28. Landlord's power to distrain.
-

PREFERENTIAL PAYMENTS IN BANKRUPTCY ACT, 1888.

RULES OF 1886 AND 1890 (to "be read and construed as one set of rules").

No.

- 125. Priority of Costs and Charges payable out of the Estate.
- 125A. Do.
- 127. Apportionment of Costs in case of Partnership up to Receiving Order.
- 128. Costs out of Joint or Separate Estates.
- 225A. Certified List of Proofs to Board of Trade on Declaration of Dividend.
- 232. Notice of intended Dividend.
- 233. Production of Bills, Notes, &c., to Trustee on payment of Dividend.
- 285. Record Book.
- 286. Cash Book.
- 287. Submission of Books to Committee of Inspection.
- 288. Audit of Cash Book by Committee of Inspection.
- 289. Board of Trade Audit of Trustee's Accounts.
- 290. Copy of Accounts to be filed.

RULES OF 1886 AND 1890 (to "be read and construed as one set of rules"),
No.

- 291. Affidavit of no Receipts or Payments.
- 292. Proceedings on Resignation, &c., of Trustee.
- 293. Distinct Accounts of Joint and Separate Estates.
- 295. Expenses of Sale of Property.
- 296. Allowance to Debtor.
- 305. Rate of Remuneration.
- 307. Remuneration of Trustee appointed by Board of Trade.
- 308. Trustee's Trading Account.
- 309. Trustee's Application for Release.
- 310A. Delivery of Books, &c., on release of Trustee.
- 314. Creditor's Right to Copy of Accounts.
- 315. Statements of Accounts to be furnished to Creditors.
- 317. Disallowance by Board of Trade of Improper Profits of Committee of Inspection.
- 317A. Sanction of payments to Members of Committee of Inspection.
- 318. Discharge of Costs of Official Receiver before Estate handed over to Trustee.
- 340. Local Bank Transactions.
- 343. Remuneration of Special Manager.
- 344. Accounts of Special Manager.
- 345. { Unclaimed Funds or Dividends under Section 162 of the
- 346. { Bankruptcy Act, 1883.
- 346A. }

BOARD OF TRADE REGULATIONS.

The Inspector-General in Bankruptcy is now (1905) the official charged by the Board of Trade with the supervisory jurisdiction of the accounts of Trustees in Bankruptcy and Trustees under Deeds of Arrangement.

CHAPTER III.

ACCOUNTS OF TRUSTEES UNDER DEEDS OF ARRANGEMENT.

ANNUAL ACCOUNTS TO BOARD OF TRADE.

EVERY Trustee under *any* deed of arrangement as defined by the Deeds of Arrangement Act, 1887, must within thirty days of the first day of January in each year transmit to the Board of Trade an account of his receipts and payments as such Trustee. (Bankruptcy Act, 1890, Section 25.)

Definition of "Trustee."—

The term "Trustee" here includes any person appointed to distribute a composition, or to act in any fiduciary capacity under any deed of arrangement. (*Ibid.*)

Period Covered by Account.—

The account should contain particulars of the Trustee's receipts and payments from the date of the execution of the deed, or of the last account rendered by him, as the case may be, up to the previous 31st December. If, however, the matter is wound up before the 31st January, the account may be made up to the close of the estate. (Board of Trade Regulations.)

In practice, where the Trustee has control of several estates under deeds of arrangement, it is often found inconvenient to defer all the returns to 31st January (a busy time

The Receipts and Payments Account is to be on form D/A 9, which is as follows:—

No.....

D/A 9.—*Trustee's Account of Receipts and Payments.*

THE BANKRUPTCY ACT, 1890.

IN THE MATTER OF A DEED OF ARRANGEMENT.

and his Creditors.

ACCOUNT OF RECEIPTS AND PAYMENTS.

Pursuant to Section 25 of the Bankruptcy Act, 1890.

[illegible]

* Here set out particulars of any outstanding estate, and the estimated value thereof.

NOTE.—The outstanding estate consists of*

Only the *total* amount of each dividend or instalment of composition is to be entered in the Trustee's Account of Receipts and Payments (Rule No. 12), the detail being given on the following form :—

D/A-14.

LIST OF DIVIDENDS OR COMPOSITION.

[illegible]

I **hereby Certify** that a Dividend [or Composition] of _____ in the £ has been paid in the above matter and that the Creditors whose names are set forth below are entitled to the amounts set opposite their respective names in the columns headed "Amount of Dividend [or Composition]" and I further certify that the column headed "Unpaid" contains a true and complete list of all unpaid Dividends or Compositions.

Trustee.

Dated the day of 190

To the Board of Trade.

[illegible]

PROVISIONS AS TO METHOD OF PREPARING AND RETURNING ACCOUNTS.

Rent, Rates, &c.—Petty Expenses.—Realisations of Property.—

In each account each receipt and payment must be entered in such a manner as will sufficiently explain its nature. (Rule 8 of 1890.) In the case of rent, rates, taxes, and wages the period covered by the payment should be stated. (Board of Trade Regulations.) Petty expenses must be entered in the accounts in sufficient detail to show that no estimated charges are made. (Rule 10.) Where property has been realised, the gross proceeds of sale must be entered under receipts in the account, and the necessary disbursements incidental to sales must be entered as payments. (Rule 11.) Where such charges have been paid by the purchaser the fact should be stated in the account, together with the amount of the charges, if within the knowledge of the Trustee. If any property has been disposed of by private treaty, or by tender, the fact should be stated in the account.

Banking Transactions.—

It is *not* necessary that the payments into and withdrawals from the bank should be shown in the account of receipts and payments; but where a special banking account has been opened in the name of the Trustee a memorandum summarising the lodgments and withdrawals should be made on the Receipts and Payments Account. Where no special banking account has been opened the fact should be stated.

Law Costs.—

Where law costs are charged in the account the Trustee should state on the face of the account what portion of such costs is (a) in connection with the preparation and registration of the deed, and (b) in connection with legal work done for

the Trustee. Where the costs of the preparation and registration of the deed are not charged in the account, a note should be added at the foot as to whether the debtor himself made any, and, if so, what, payment in respect of such costs. (Board of Trade Regulations.)

Joint and Separate Estates.—

Where the deed has been made by debtors in partnership, distinct accounts must be kept (and transmitted), showing the receipts and payments of the joint estate and of each of the separate estates. (Rule No. 13.)

AFFIDAVITS.

With Interim Accounts.—

The accounts must be verified by the affidavit of the Trustee. (Rule 7.) There are two forms provided, the first for "pending" matters, being as follows:—

D/A-11.

AFFIDAVIT VERIFYING TRUSTEE'S ACCOUNT.

IN THE MATTER OF A DEED OF ARRANGEMENT

dated the day of 190 , and Registered
the day of 190 , between

as Debtor and

as Trustee

I,
of

the Trustee of the estate comprised in the above-mentioned deed, make oath and say:

NOTE.—If no receipts or payments strike out the words in italics.

That the account hereto annexed, marked B, contains a full and true account of my receipts and payments on account of the estate comprised in the said deed, from the day of 190 , to the day of 190 , inclusive, and that I have not, nor has any other person by my order, or for my use during such period, received or paid any moneys on account of the said estate, other than and except the items mentioned and specified in the said account.

Sworn at

the day of
Before me,

A Commissioner to Administer Oaths in the Supreme Court of Judicature in England.

With Final Accounts.—

Where the Trustee has either (1) realised all the property included in the deed of arrangement, or so much as can probably be realised, and made a final distribution of dividend or composition, or (2) fulfilled the trusts and obligations in any other way, he must transmit with his final account an affidavit to that effect, and no further accounts will be required from him. (Rule 16 of 1890.)

The form is as follows:—

AFFIDAVIT VERIFYING TRUSTEE'S FINAL
ACCOUNT.

[illegible]

I, _____ of _____
the Trustee appointed under the terms of the above-mentioned deed
[or the person distributing the composition herein,] make oath
and say:—

1. That "the account hereunto annexed, marked "B" contains a full and true account of my receipts and payments on account of the estate comprised in the said deed, from the day of 190 to the day of 190 inclusive, "and that I have not nor has any person by my order or for my use during such period received or paid any moneys on account of the said estate, "other than and except the items mentioned and specified in the said Account.
2. That all the property assigned under the deed, or so much thereof as can probably be realised, has been realised and distributed according to the terms of the deed ; and that a dividend (or dividends) of _____ in the pound has been paid, as shown in the list hereunto annexed, marked "C "
- or
3. That the composition proposed under the deed has been fully received and distributed as far as possible, as shown in the list hereunto annexed, marked "C."

the day of 190

Before me,

A Commissioner to administer Oaths in the Supreme Court of Judicature in England.

* If no receipts or payments strike out the words in italics.

† Strike out paragraph not applicable, or, if neither paragraph is applicable, add a special paragraph setting out the facts.

"No Receipts or Payments."—

Where a Trustee has not since the date of his appointment, or last account, as the case may be, received or paid any moneys as such Trustee, the affidavit must be filled up accordingly, and forwarded when the account is due. (Rule 15 of 1890.)

(See note on both forms of affidavit.)

In practice, the affidavit of no receipts or payments is seldom required; for even in those cases where no assets have come to the Trustee by virtue of his office, he will in almost every period for which the return is required have to make some small disbursements.

Exhibits to Affidavit.—

The Dividend List mentioned in the form of affidavit has already been referred to (page 55).

Both the Account and Dividend List, if any, must be marked as exhibits to the affidavit by the Commissioner before whom the affidavit is sworn.

Joint Trustees.—

Where more than one Trustee has been appointed the account should be verified by each Trustee.

REQUISITIONS BY THE BOARD OF TRADE.

Where the Board of Trade consider the accounts incomplete, or that they require amending or explaining, they may make such requisitions upon the Trustee thereupon as they may think necessary. (Rule 14.)

Board of Trade Fees.—

Before distributing his final dividend the Trustee should make provision for the necessary expenses incidental to these accounts, particularly the fees payable to the Board of Trade,

for the accounts must bear an *ad valorem* (bankruptcy) stamp, based upon the gross amount of the assets realised and brought to credit, or upon the gross amount of the composition distributed during the period comprised in the account.

For the purpose of assessing this duty the payments made upon Trading Account and payments to secured creditors in respect of their securities may be deducted from the total realisations.

The stamp fees are:—

	s	d
On every £100 or fraction of £100 up to £500 ..	5	0
„ £100 „ £100 above £500 ..	2	6

(Scale of Fees, 11 May 1891.)

The scale is not cumulative—that is to say, in assessing the stamp duty upon the second or subsequent account filed, the amount upon which duty has been paid on any prior account must not be considered.

MODIFIED ACCOUNTS IN SPECIAL CASES.

Where it appears to the Board of Trade that an account of receipts and payments in the prescribed form may, *for special reasons*, be dispensed with, the Trustee may be permitted to transmit such a summary or modified statement of accounts as the Board of Trade may think sufficient. (Rule 17.)

INSPECTION OF ACCOUNTS BY CREDITORS.

The accounts transmitted to the Board of Trade may be inspected by any creditor upon payment of one shilling, and the Board of Trade will supply copies of or extracts therefrom to any creditor upon payment of fourpence per folio of 72 words or figures. (Bankruptcy Act, 1890, Section 25.)

UNCLAIMED DIVIDENDS.

A Trustee under a Deed of Arrangement is not required, as are Trustees in Bankruptcy and Liquidators in Company Winding-up, to pay over undistributed balances and unclaimed dividends to the Bank of England. Many Trustees, desiring to obtain a complete discharge from their trust, have voluntarily offered to pay over unclaimed dividends to the Bankruptcy Estates Account, but the Board of Trade have no power to accept them, and they accordingly remain under the control of the Trustees.

In the possible event of some future Bankruptcy Act dealing with this matter with retrospective effect, as in the case of the 1883 Act, Trustees are well advised to be prepared for the contingency by paying all unclaimed dividends into a special Bank Account with their own bankers, keeping a detailed record of the names of the creditors and of the particular estates.

Summary of Regulations Governing Accounts under Deeds of Arrangement.

BANKRUPTCY ACT, 1890, Section 25.

DEEDS OF ARRANGEMENT RULES, 1890, Nos. 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, and 17.

CHAPTER IV.

ACCOUNTS OF LIQUIDATORS IN COMPULSORY WINDING-UP.

BOOKS.

Record Book.—

THE Official Receiver, until a Liquidator is appointed by the Court, and thereafter the Liquidator, shall keep a book to be called the "Record Book," in which he shall record all minutes, all proceedings had, and resolutions passed at any meeting of creditors or contributories, or of the Committee of Inspection, and all such matters as may be necessary to give a correct view of his administration of the company's affairs, but he shall not be bound to insert in the "Record Book" any document of a confidential nature (such as the opinion of counsel on any matter affecting the interest of the creditors or contributories), nor need he exhibit such document to any person other than a member of the Committee of Inspection, or the Official Receiver, or the Board of Trade. (Rule No. 149.)

Cash Book.—

The Official Receiver, until a Liquidator is appointed by the Court, and thereafter the Liquidator, shall keep a book to be called the "Cash Book" (which shall be in such form as the Board of Trade may from time to time direct), in which he shall (subject to the provisions of the Rules as to Trading Accounts) enter from day to day the receipts and payments made by him. (Rule No. 150.)

Trading Account.—

Where the Liquidator carries on the business of the company, he shall keep a distinct account of the trading, and shall incorporate in the Cash Book the total weekly amount of the receipts and payments on such Trading Account. (Rule No. 154.)

Method of Writing up Cash Book and Trading Account.—

The specimen forms which will be found throughout this chapter are to be filled up in accordance with the regulations prescribed from time to time by the Board of Trade. These regulations are *mutatis mutandis* the same as those prescribed for Trustees in Bankruptcy. (See page 4 *et seq.*)

Special attention is directed to the provision that payments for rent, salaries, wages, &c., due at the date of the winding-up order should be entered under the head of Preferential Payments, and carefully distinguished (by apportionment, if necessary) from similar payments which may arise or become necessary while carrying on trade; the latter should be entered in the Trading Account.

The full discussion of a landlord's rights of distraint is beyond the scope of this work, but the reader is reminded that these rights differ in bankruptcy and company liquidation.

Basis of Remuneration.—

The remuneration of a Liquidator, unless the Court shall otherwise order, shall be fixed by the Committee of Inspection, and shall be in the nature of a commission or percentage, of which one part shall be payable on the amount realised after deducting the sums (if any) paid to secured creditors (other than debenture-holders) out of the proceeds of their securities, and the other part on the amount distributed in dividend. If the Board of Trade is of opinion that the remuneration of a

Liquidator, as fixed by the Committee of Inspection, is unnecessarily large, the Board of Trade may apply to the Court, and thereupon the Court shall fix the amount of the remuneration of the Liquidator. If there is no Committee of Inspection, the remuneration of the Liquidator shall, unless the Court shall otherwise order, be fixed by the scale of fees and percentages for the time being payable on realisations and distributions by the Official Receiver as Liquidator. (Rule No. 137.)

Note.—Assets realised by the Official Receiver, and moneys expended in carrying on the business, must also be deducted from the gross realisations.

Cost of Security.—

Unlike bankruptcy procedure (where the Committee of Inspection may sanction the payment out of the estate), the Liquidator must in *all* cases personally bear the cost of giving security (Rule 60), and any resolution to the contrary by the Committee of Inspection, creditors, or contributories would be *ultra vires*.

COMPANIES (WINDING-UP) ACT, 1890.

IN THE.....COURT.

Companies Liquidation No.....of 190....

CASH BOOK.

In the matter of.....

.....

COMPANY'S CASH BOOK.

[illegible]

PAYMENTS.				
Date	PARTICULARS	Voucher Nos. (in red)	Total	Paid into Bank
			£ s d	£ s d

69

PAYMENTS.

COSTS OF REALISATION.		
Board of Trade and Court Fees.	£ s d	£ s d
Law Costs of Petition	£ s d	£ s d
Law Costs after Winding-up Order	£ s d	£ s d
Remuneration of Manager and Liquidator	£ s d	£ s d
Official Receiver's Commission on Assets Realised, and Amount Distributed in Dividend or Paid to Creditors	£ s d	£ s d
Charges of Auctioneer, Accountant, Short-hand Writer, &c., as taxed	£ s d	£ s d
Notices in Gazette and Local Paper	£ s d	£ s d
Incidental Expenses, including Possession	£ s d	£ s d
Preferential Creditors and Rent	£ s d	£ s d
Payments to Redeem Securities	£ s d	£ s d
Dividends Paid	£ s d	£ s d
Repayments to Contributors	£ s d	£ s d
Other Payments	£ s d	£ s d

LIQUIDATOR'S TRADING ACCOUNT UNDER SECTION 20.

the Liquidator of the above-named company in account with the estate.

Dr.	RECEIPTS.		PAYMENTS.	Cr.
		£ s d		£ s d

We have examined this account with the vouchers and find the same correct, and we are of opinion the expenditure has been proper.

Dated this _____ day of _____

19

**Committee of Inspection
(or Member of the Committee of Inspection).**

BANKING TRANSACTIONS.

Lodgments.—

Except where a "Local Bank Account" has been authorised (see *infra*), all moneys received are to be paid into the Companies Liquidation Account at the Bank of England, the procedure and forms being the same (*mutatis mutandis*) as in connection with the Bankruptcy Estates Account. (See page 15 *et seq.*) (Companies (Winding-up) Act, 1890, Section 11.)

Penalties for Improper Retention of Moneys by Liquidator.—

If a Liquidator at any time retains for more than ten days a sum exceeding £50, or such other amount as the Board of Trade in any particular case may authorise him to retain, then, unless he explains the retention to the satisfaction of the Board of Trade, he shall pay interest on the amount so retained in excess at the rate of £20 per cent. per annum, and shall be liable to disallowance of all, or such part, of his remuneration as to the Board shall seem just, and to be removed from his office by the Board, and shall be liable to pay any expenses occasioned by reason of his default. (Companies (Winding-up) Act, 1890, Section 11, Sub-section 4.)

"Local Bank."

Where a Liquidator is authorised (under Section 11, Sub-section 3, Companies (Winding-up) Act, 1890) to have a special (local) Bank Account, he must forthwith pay all moneys received by him into that account to the credit of the Liquidator of the company. All payments out must be made by cheque payable to order, and every cheque must have marked or written on the face of it the name of the company, and be signed by the Liquidator, and countersigned by at least one member of the Committee of Inspection, and by such other person (if any) as the Committee of Inspection may appoint. (Rule No. 148.)

Section 16 of the Finance Act, 1895, assimilated compulsory liquidation procedure as regards the stamping of documents to

Section 144 of the Bankruptcy Act, 1883; therefore *unstamped* cheque books should be obtained for use in the case of a "special" or "local bank."

Upon every application by a Committee of Inspection to the Board of Trade for a local banking account a fee of £1 is payable, and upon every order of the Board of Trade for such local bank account a fee of £2 is payable.

Withdrawals.—

Separate forms—following bankruptcy procedure—are supplied to Liquidators for the under-mentioned purposes:—

- (1) On claiming repayment of advances made by the Liquidator prior to his application for release.
- (2) On application for cheques in favour of solicitors, auctioneers, &c.
- (3) On application for orders for payment of dividends to creditors.

The forms are practically identical with those prescribed in bankruptcy. (See pages 20, 22, and 24.) Application for cheques and money orders for the return of surplus assets to contributories should be made on the second of the forms referred to above, known officially as C. No. 6. The name of each contributory and the amount for which he has been settled on the list should be given, and in cases where the amount payable is under £2 the place at which the money order is to be made payable should also be stated.

Advances by Liquidator.—

Any advances made by the Liquidator, *after his application, for, but before obtaining,* his release, will be repaid to him by the Official Receiver out of any funds available for the purpose.

Certificate of Balance in Companies Liquidation Account.—

The Board of Trade will be prepared to certify the balance standing to the credit of a company in the Companies Liquidation Account, on receiving from the Liquidator a statement of the balance shown by the Bank columns of the Cash Book. There does not appear to be any fee payable.

Investment of Surplus Bank Balances.—

The Companies (Winding-up) Act, 1890 (Sections 17 and 18), makes provision for an account to be kept by the Board of Trade of the receipts and payments of each company, and when the cash balance standing to the credit of the account of any company is considered by the Committee of Inspection to be in excess of the available amount required, then such surplus may be invested in Government securities, and the dividends earned thereon paid to the credit of the company.

AUDIT.

By Committee of Inspection (Trading Account).—

The Trading Account shall from time to time, and not less than once in every month, be verified by the affidavit of the Liquidator, and the Liquidator shall thereupon submit such account to the Committee of Inspection (if any), or such member thereof as may be appointed by the Committee for that purpose, who shall examine and certify the same. (Rule No. 154.)

By Committee of Inspection (Cash Book, &c.).—

The Liquidator shall submit the Record Book and Cash Book, together with any other requisite books and vouchers, to the Committee of Inspection (if any) when required, but not less than once every three months (Rule 150); and the Committee shall, not less than once every three months, audit the Liquidator's Cash Book and certify therein under their hands the day on which the said book was audited. (Rule 152.)

If there is no Committee of Inspection, the Liquidator must submit his accounts to the Official Receiver. Where there is a Committee, the Liquidator should summon a meeting immediately the accounts become due, so that they may be audited before being forwarded to the Board of Trade, but the accounts must not be delayed in consequence of any neglect on the part of the members of the Committee to attend such meeting; in such event a memorandum should be inserted in the Cash Book to the effect that the meeting was duly summoned, but that a quorum was not present. The accounts should then be forwarded to the Board of Trade.

By the Board of Trade (Cash Book, &c.)—

Every Liquidator shall, at the expiration of *six months* from the date of the winding-up order, and at the expiration of every succeeding six months thereafter until his release, transmit to the Board of Trade a copy of the Cash Book for such period, in duplicate, together with the necessary vouchers and copies of the certificates of audit by the Committee of Inspection. He shall also forward *with the first accounts* a summary of the company's statement of affairs, showing thereon in red ink the amounts realised, and explaining the cause of the non-realisation of such assets as may be unrealised.

When the assets of the company have been fully realised and distributed, the Liquidator shall *forthwith* send in his accounts to the Board of Trade, although the six months may not have expired. (Rule No. 153.)

The "duplicate" copies of the Estate Cash Book prescribed by the rule consist of (1) a complete copy (with all Analysis columns), which is retained by the Board of Trade; and (2) a copy containing "Bank" and "Total" columns only. After the audit this is forwarded to the local Court for registration. (See Rule No. 155, page 81.)

Note.—The copy of Cash Book forwarded at the first audit will incorporate the receipts and payments of the Official Receiver, who accounts to the Liquidator on his appointment.

The accounts sent in by the Liquidator shall be verified by him by affidavit. (Rule No. 153.)

The form is (*mutatis mutandis*) the same as in bankruptcy (see page 31), and a 2s. winding-up stamp must be attached thereto.

The dates inserted in the various affidavits must cover the entire period from the Liquidator's appointment to the date of his application for release. The terms of the affidavit make it incumbent on a Liquidator to account for moneys received by his solicitor, or by any other person on his behalf.

Where a Liquidator has not since the date of his appointment, or since the last audit of his accounts, as the case may be, received or paid any sum of money on account of the assets of the company, he shall at the time when he is required to transmit his accounts to the Board of Trade, forward to the Board an affidavit of no receipts or payments. (Rule No. 157.)

In practice the affidavit of no receipts or payments is seldom required; for even in those cases where there are no assets coming to the Liquidator by virtue of his office, he will in almost every period for which the return is required have to make some small disbursements. Where it is unlikely that any assets will come to the Liquidator's hands, he may have obtained an undertaking before accepting office that these disbursements will be repaid to him by the parties for whom he is acting; but while receipts by way of reimbursement from such sources are not deemed to be on behalf of the estate, the payments actually made by the Liquidator are so considered.

Upon being sworn to an affidavit verifying his accounts, the Liquidator should see that the accounts are duly marked by the Commissioner or other person administering the oath.

The Trading Account or Accounts (if any), together with vouchers, and the affidavit or affidavits verifying same in accordance with Rule No. 154 (*supra*), are required, also:—

(a) Special Manager's Account (if any), with vouchers and affidavit.

(b) Receipts for cash paid, and allocaturs for taxed costs.

Note.—No payments in respect of bills or charges of solicitors, managers, accountants (other than the Liquidator, or other than persons employed by the Official Receiver in accordance with Rule No. 57), auctioneers, brokers, or other persons, are to be allowed out of the assets of a company without proof that the same have been considered and allowed by the Registrar. (Rule No. 170.)

(c) Vouchers in support of assets realised, such as auctioneer's "Sale Account" and "Marked Catalogue" (if any).

(d) Record Book.

(e) Bank Pass Book, where a special Bank Account has been authorised, together with a certificate by the banker of the balance due at the date of the account.

(f) Order on the Companies Liquidation Account (Form No. C 35 *infra*) authorising the payment to the Board of Trade of the departmental fees due upon the assets realised. (See page 77.)

(g) A list of paid and unclaimed dividends (if any declared) to creditors.

(h) A list of paid and unclaimed dividends (if any declared) to contributories.

(i) A report on the position of the estate (Form No. Lr. 13 *infra*) must be sent with *every* account (Rule 153), and with the *first* account only there must be submitted a copy of the front sheet of the Statement of Affairs, and also of Schedules B, C, G, and H attached thereto, duly certified by the Court.

No. C. 30.

Request to Board of
Trade to charge *ad*
valorem duty on Audit.

THE COMPANIES (WINDING-UP) ACT,
1890.

COMPANIES LIQUIDATION ACCOUNT.

LEDGER FOLIO _____

RE _____

Court _____ No. _____ of _____

I certify that the sum of £ : : is required for the payment of the undermentioned *ad valorem* duty payable in money under the Treasury Order of the 2nd December 1903, and I hereby request that the said sum may be charged against the Company and credited to the Board of Trade Fees Account.

The balance standing to the credit of the Company in the Companies Liquidation Account as shown by my books is £ : : .

Liquidator.

To the Comptroller
of the Companies Department,
8 Delahay Street,
Westminster, London. S. W.

Address _____

Date _____

Nature of Duty	Amount			Entered
	£	s	d	
On Copy of Cash Book for Audit.				

Extract from Scale of Fees—Table B:—

On the audit of the Official Receiver's or Liquidator's accounts by the Board of Trade, a fee according to the following scale on the amount brought to credit, including the produce of calls on contributories, but after deducting (1) money received and spent in carrying on the business of the Company, and (2) amounts paid by the Official Receiver or Liquidator to secured creditors (other than debenture holders):—

On the first £5,000 or fraction thereof	..	1	per cent.
On the next £95,000	"	"	"
On the next £400,000	"	"	"
On the next £900,000	"	"	"
Above £1,000,000	..	..	1½ "

NOTE.—This form is printed with copyable ink, and a press copy can, if desired, be taken.

No. Lr. 13.

Audit No. _____

Reg. No. _____

Re _____

Company, Limited.

Report of Liquidator on position of Estate at the

Audit, due _____

Assets as per Statement	Realised	Estimated Value Outstanding	Remarks
Property as per List "H," viz. :—	£ s d	£ s d	£ s d
(a) Cash at Bankers			
(b) " in hand			
(c) Stock-in-Trade			
(d) Machinery, &c.,			
(e) Trade Fixtures, &c.,			
(f) Investments in Shares, &c.,			
(g) Loans on Mortgage			
(h) Other Property, viz. :—			
Book Debts—Good			
Do. Doubtful and bad			
Bills of Exchange			
Surplus from Securities			
Unpaid Calls, as per List "K"			
Capital not called up			
Totals			

Date of Winding-up Order _____

Date of First Meeting _____

Date of Liquidator's Certificate _____

Balance now at credit of the Liquidation £ _____

DIVIDENDS.

When Declared	What Declared per £	If not declared, state reason	State when declaration will probably be effected

LEGAL PROCEEDINGS AUTHORISED.

Date of Resolution authorising employment of Solicitors	Name of Solicitors	Nature of work authorised to be done*

If any actions or other proceedings are delaying the close of the Liquidation, state shortly the nature and probable duration thereof.*

If application for release not yet made, state reason and when Liquidator expects to be in a position to apply for same.

State shortly any other circumstances tending to delay the winding-up of the Company, or affecting the realised value of the property or the costs of its realisation.

To

Liquidator.

The Comptroller of the Companies Department,
8 Delahay Street, Westminster, London, S.W.

Date _____ 19

* Where the above space is not sufficient for the answer, it may be written on the back, or on a separate sheet.

The bankruptcy provision, whereby it is prescribed that a statement of account shall be sent to each creditor with the "notice of dividend," appears to be replaced in winding-up procedure by Rule 156, which is as follows:—

The Liquidator shall transmit to the Board of Trade with his accounts a summary of such accounts in such form as the Board of Trade may from time to time direct, and, on the approval of such summary by the Board of Trade, shall forthwith obtain, prepare, and transmit to the Board of Trade so many printed copies thereof, duly stamped for transmission by post, and addressed to the creditors and contributories, as may be required for transmitting such summary to each creditor and contributory. The cost of printing and posting such copies shall be a charge upon the assets of the company. (See form *infra*.)

SUMMARY OF ACCOUNTS. In the Court. No. of 19

In the Matter of the Companies Acts, 1862 to 1900,
AND

In the Matter of _____ Limited.

SUMMARY OF LIQUIDATOR'S ACCOUNTS,

From _____ 190____, to _____ 190____

Issued by the Board of Trade under the provisions of Sec. 20 of the Companies
(Winding-up) Act, 1890.

Dr.		Cr.	
Receipts		Payments	
£ s d		£ s d	
To Balance		By Balance	
" Receipts, viz.:—		" Board of Trade and Court	
(a) Cash at Bankers		Fees	
(b) Do. in hand		Law Costs of Petition, includ-	
(c) Stock-in-Trade		ing Costs of any person	
(d) Machinery, &c.		appearing on the petition	
(e) Trade Fixtures, &c. ..		whose costs are allowed ..	
(f) Investments in Shares, &c.		Costs of Solicitor to Liqui-	
(g) Loans on Mortgage ..		dator	
(h) Other Property, viz.:—		Other Law Costs	
" Book Debts—good		Special Manager's Charges ..	
" Do. doubtful and bad ..		Allowance for preparing State-	
" Bills of Exchange		ment of Affairs	
" Surplus from Securities ..		Fees of Official Receiver as	
" Receipts per Trading Account		Provisional Liquidator ..	
" Calls due at date of Winding-		Charges of Provisional Liqui-	
up Order		dator, other than Official	
" Calls made by Liquidator ..		Receiver	
Less—	£ s d	Remuneration of Liquidator ..	
Payments to Debenture holders		Auctioneer's and Valuer's	
Do. to Execution and other		Charges	
secured creditors		Shorthand Writers' Charges ..	
Do. per Trading Account ..		Other Charges	
		Costs of Possession	
		Do. of Notices in "Gazette"	
		and Local Papers	
		Incidental Outlay	
		Total Costs and Charges ..	
		Creditors and	£ s d
		Contributories—	
		Preferential	
		Creditors ..	
		Unsecured Credi-	
		tors: dividend	
		of	
		£ on £	
		Return to Contri-	
		butories at the	
		rate of	
		per share	
		Balance	
	£		£

Creditors and Contributories can obtain any further information on application to the Liquidator.

day of _____ 190____

Liquidator.

Address _____

Certificate by Board of Trade.—

When the Liquidator's Account has been audited, the Board of Trade shall certify the fact upon the account, and thereupon the duplicate copy, bearing a like certificate, shall be filed with the Registrar. (Rule No. 155.)

LIQUIDATOR'S APPLICATION FOR RELEASE.

A Liquidator, before making application to the Board of Trade for his release, shall give notice of his intention so to do to all the creditors who have proved their debts, and to all the contributories, and shall send with the notice a summary of his receipts and payments as Liquidator. (Rule No. 180.)

This is a summary of the cash transactions from the date of the winding-up order, and, although the form follows the same lines as that prescribed under Rule 156, the practical effect is that it must be sent to the creditors and contributories in addition to the usual six-monthly accounts, unless the liquidation is concluded within six months from the commencement of the winding-up. In that case the one account may accompany the notice of intention to apply for release.

The notice of intention to apply for release is practically the same as in bankruptcy (see page 39), the foot-note on the bankruptcy form being replaced in compulsory liquidation by Section 22 (3) of the Companies (Winding-up) Act, 1890, which is (*mutatis mutandis*) the same as the Bankruptcy Act, 1883, Section 82 (3).

The accounts and documents already mentioned must be forwarded for audit to the Board of Trade before successful

application can be made by the Liquidator for release, but it may be added that he should also send:—

- (1) Formal application for release.
- (2) Affidavit verifying postage of notice of intention to apply for release to all creditors who have proved their debts, and to all contributories. A 2s. winding-up stamp to be attached thereto.
- (3) Certificate by Committee of Inspection (if any) as to realisation of all reasonable assets.

Note.—If the Liquidator certifies that all assets have been realized this certificate will not be required.

- (4) Form of notice of release for insertion in *Gazette*. A 5s. winding-up stamp to be attached.

Note.—The above forms are practically the same as those provided for bankruptcy procedure. (See pages 41, 42, and 43.)

The Liquidator should make careful provision before declaring a final dividend for the various expenses incidental to the audit of his accounts and to his application for release. There is *no* provision in company liquidation for a fee to the Board of Trade on application for release; the scale of fees payable upon the audit of the Cash Book is given at the foot of Form No. C 30 (page 77).

N.B.—For the purpose of calculating this duty (as also for the Liquidator's remuneration) debenture-holders are *not* secured creditors.

UNCLAIMED DIVIDENDS.

See this heading in Chapter VII. "Pending Liquidations."

INSPECTION OF BOOKS, &c., BY CREDITORS.

Creditors do *not* appear to have the same right as in bankruptcy of demanding copies of the Cash Book, or of requisitioning the transmission to the creditors of accounts to date of the requisition notice; but, subject to the control of the Court, any creditor or contributory may, either personally or by his agent, inspect the books and records of the Liquidator (Companies (Winding-up) Act, 1890, Section 21); and where an order has been made for winding up a company by the Court, or subject to the supervision of the Court, the Court may make such order for the inspection by the creditors and contributories of the company of its books and papers as the Court thinks just, and any books and papers in the possession of the company may be inspected by creditors or contributories in conformity with the order of the Court, but not further or otherwise. (Companies Act, 1862, Section 156.)

SPECIAL MANAGER'S ACCOUNTS.

Every special manager shall account to the Official Receiver, and the special manager's accounts shall be verified by affidavit, and when approved by the Official Receiver the totals of the receipts and payments shall be added by the Official Receiver to his accounts. (Rule 49.)

The prescribed form is a simple statement of receipts and payments, and the receipts and payments of the Official Receiver (including those of the special manager) are incorporated with the Liquidator's accounts. The verified accounts of the special manager must be forwarded to the Board of Trade, together with the necessary vouchers, at the first audit of the Liquidator's accounts.

DISPOSITION OF BOOKS.

Where a company has been wound up by or subject to the supervision of the Court, and is about to be dissolved, the books, accounts, and documents of the company, and of the Liquidators, may be disposed of in such a way as the Court directs, but after the lapse of five years from the date of such dissolution no responsibility shall rest on the company or the Liquidators, or anyone to whom the custody of such books, accounts, and documents has been committed, by reason that the same or any of them cannot be made forthcoming to any party or parties claiming to be interested therein. (1862 Act, Section 155.)

Subject to the above, the following rule applies to companies wound up by order of the Court:—

(1) Upon a Liquidator resigning or being released or removed from his office, he shall deliver over to the Official Receiver, or, as the case may be, to the new liquidator, all books kept by him, and all other books, documents, papers, and accounts in his possession relating to the office of Liquidator. The release of a Liquidator shall not take effect unless and until he has delivered over to the Official Receiver, or, as the case may be, to the new Liquidator, all the books, papers, documents, and accounts which he is by this rule required to deliver on his release.

(2) The Board of Trade may at any time during the progress of the liquidation, on the application of the Liquidator or the Official Receiver, direct that such of the books, papers, and documents of the company, or of the Liquidator, as are no longer required for the purpose of the liquidation may be sold, destroyed, or otherwise disposed of. (Rule 158.)

RETURNS TO REGISTRAR OF JOINT STOCK COMPANIES.

See Chapter VII. "Pending Liquidations."

Summary of Regulations Governing Accounts of Liquidators in Compulsory Winding-up.

COMPANIES ACT, 1862.

Section.

155. Disposition of Books.

COMPANIES (WINDING-UP) ACT, 1890.

Section.

- 11. Payment of Moneys into Bank of England.
- 17. Investment of Surplus Cash Balances.
- 20. Audit of Liquidator's Accounts by Board of Trade.
- 21. Books to be kept by Liquidator.
- 22. Board of Trade Report on Accounts on Application by Liquidator for Release.

PREFERENTIAL PAYMENTS IN BANKRUPTCY ACT, 1888.

" " " (AMENDMENT) ACT, 1897.

FINANCE ACT, 1895.

Section.

16. Exemption of Deeds, &c., from Stamp Duties.

COMPANIES (WINDING-UP) RULES, 1903.

No.

- 49. Accounts of Special Manager.
- 57. Expenses of Statement of Affairs.
- 60. Cost of Furnishing Security by Liquidator or Special Manager.
- 120. Return of Capital to Contributories.
- 137. } Remuneration of Liquidator.
- 138. }
- 144. Discharge of Costs, &c., of Official Receiver by Liquidator.
- 148. Special Bank Account.
- 149. Record Book.
- 150. { (1) Cash Book.
- (2) Submission of Books and Vouchers to Committee of Inspection.

COMPANIES (WINDING-UP) RULES, 1903.

No.

151. Investment of Surplus Funds.
152. Audit of Cash Book by Committee of Inspection.
153. Audit of Liquidator's Accounts by Board of Trade.
154. Liquidator's Trading Account (and Audit thereof by Committee of Inspection).
155. Certificate by Board of Trade of Audit of Liquidator's Accounts.
156. Summary of Accounts to Board of Trade.
157. Affidavit of "No Receipts or Payments."
158. Proceedings on Release of Liquidator.
159. Expenses on Sale of Properties.
169. Remuneration of Liquidator.
170. Costs Payable out of Assets.
174. Unclaimed Funds and Undistributed Assets.
180. Application by Liquidator for Release.

BOARD OF TRADE REGULATIONS.

Note.—The Board of Trade supervision of *all* Company procedure (including Winding-up) is now (1905) vested in the Comptroller of the Companies Department, the Board of Trade having divided the dual office of Inspector-General in Bankruptcy and Inspector-General in Companies Liquidation, at one time held by the same official.

See end of Chapter VII. "Pending Liquidations" for further regulations applying only to liquidations not concluded within one year of the commencement of the winding up.

CHAPTER V.

ACCOUNTS OF LIQUIDATORS IN VOLUNTARY WINDING-UP.

MEETINGS OF CONTRIBUTORIES (and Accounts to be submitted thereat.) Annual.—

In the event of a voluntary winding-up continuing for more than a year, the Liquidator must summon a general meeting of the company at the end of the first year, and at the end of each succeeding year from the commencement of the winding-up, or so soon thereafter as may be convenient, and shall lay before such meeting an account showing his acts and dealings, and the manner in which the winding-up has been conducted during the preceding year. (Companies Act, 1862, Section 139.)

On Completion of Winding-up.—

The Liquidator must, as soon as the affairs of the company are fully wound up, prepare a final account showing the manner in which such winding-up has been conducted, and the property of the company disposed of; and thereupon he must call a general meeting of the company, so that the members may have the account laid before them, and hear any explanation that may be given by the Liquidator. The meeting must be called by advertisement, specifying the time, place, and object of such meeting, and such advertisement, as respects companies registered in England, must be published in the *London Gazette* at least one month previously to the meeting. (Companies Act, 1862, Section 142.)

In addition to this "statutory" notice (which, in reality, is more a notice to the public than to the shareholders) it is suggested that notice should also be sent to the members in the form and time required by the ordinary regulations of the company, for the company remains a company until the expiration of the three months referred to in Section 143 of the Companies Act, 1862 (see Return of Final Meeting *infra*), and the regulations of the company with regard to general meetings of shareholders apply until the company is actually dissolved. Again, it is of practical importance to the Liquidator that a *quorum* should be present, and the meeting duly held, in order that :--

- (1) He may obtain any necessary resolutions, such as that for disposal of the company's books, or for sanction of his remuneration. (See page 90.)
- (2) He may make a return to the Registrar of Joint Stock Companies that the meeting has been held. (See page 90.)

There is no prescribed form for the account to be submitted at the final meeting, but it usually consists of a summary of receipts and payments. Specimen form:—

IN THE MATTER OF THE COMPANIES ACTS 1862 TO 1900

AND

IN THE MATTER OF THE COMPANY, LIM.

Summary of the Liquidator's Receipts and Payments from
the _____ to _____

[illegible]

Any further information may be obtained on inquiry at the offices of the Liquidator.

Liquidator.

Disposition of Books.—

Where any company has been wound up voluntarily, and is about to be dissolved, the books, accounts, and documents of the company, and of the Liquidators, may be disposed of in such way as the company by an extraordinary resolution directs; but after the lapse of five years from the date of such dissolution no responsibility shall rest on the company, or the Liquidators, or anyone to whom the custody of such books, accounts, and documents has been committed, by reason that the same, or any of them, cannot be made forthcoming to any party or parties claiming to be interested therein. (1862 Act, Section 155.)

Return of Final Meeting.—Date of Dissolution.—

The Liquidator must make a return to the Registrar of Joint Stock Companies that the final meeting has been held, and of the date thereof, and on the expiration of three months from the date of the *registration* of such return the company shall be deemed to be dissolved; if the Liquidator makes default in making such return to the Registrar, he shall incur a penalty not exceeding five pounds for every day during which such default continues. (1862 Act, Section 143.)

If proper returns are not sent to the Registrar of Joint Stock Companies he may (after complying with certain formalities) strike the company's name from the Register, and the company will be dissolved. (Companies Act, 1900, Section 26.)

BASIS OF LIQUIDATOR'S REMUNERATION.**Fixed by Company.—**

- (1) The remuneration of a Voluntary Liquidator need not be based on any percentage scale, but it *must* be sanctioned by the company in general meeting. (Board of

Trade Regulations.) In practice, the remuneration is often fixed at the time of the Liquidator's appointment, but it may be arranged at any time during the progress of, or at the conclusion of, the winding-up.

Creditors.—

- (2) In the unlikely event of the contributories delegating the power of appointing a Liquidator to the creditors, or to a committee of creditors (*vide* Section 135, Companies Act, 1862), the creditors (or committee) would naturally fix the remuneration.

Court.—

- (3) Any contributory or creditor dissatisfied with the remuneration of the Liquidator could apply to the Court thereon under the provisions of Section 138 of the 1862 Act, as amended by the Companies Act, 1900, Section 25.

COSTS OF WINDING-UP.

The costs incurred in the voluntary winding-up of a company, including the remuneration of the Liquidator, are payable out of the assets of the company in priority to all other claims. (1862 Act, Section 144.)

See also Chapter VII. "Pending Liquidations."

Summary of Regulations Governing Accounts of Liquidators in Voluntary Winding-up.

COMPANIES ACT, 1862.

Section.

135. Delegation to Creditors of Power of Appointing Liquidator.
138. Right of Liquidator or any Contributory to Apply to Court.

COMPANIES ACT, 1862.

Section.

- 139. Annual Meeting of Contributories and Account.
- 142. Final Meeting of Contributories and Account.
- 143. Registration of Final Meeting; Date of Dissolution.
- 144. Costs of Winding-up.
- 154. Books, Accounts, and Documents to be *prima facie* evidence as between Contributories.
- 155. Disposition of Books.

COMPANIES ACT, 1900.

Section.

- 25. Right of any Creditor to Apply to Court.
- 26. Power of Registrar of Joint Stock Companies to "strike off" Register Companies not filing returns.

BOARD OF TRADE REGULATIONS.

See end of Chapter VII., "Pending Liquidations," for further regulations applying only to liquidations not concluded within one year of the commencement of the winding-up.

CHAPTER VI.

ACCOUNTS OF LIQUIDATORS IN WINDING-UP SUBJECT TO THE SUPERVISION OF THE COURT.

GENERAL CONSIDERATIONS.

A LIQUIDATION subject to the supervision of the Court is really the continuation of a voluntary winding-up, and, subject to any special provision which may be made by the Court in the order for supervision, the accounts relating to such a liquidation will be kept on the same lines and governed by the same regulations as those in *voluntary* liquidation.

DISPOSITION OF BOOKS.

Where a company has been wound up by or subject to the supervision of the Court, and is about to be dissolved, the books, accounts, and documents of the company, and of the Liquidators, may be disposed of in such a way as the Court directs, but after the lapse of five years from the date of such dissolution no responsibility shall rest on the company or the Liquidators, or anyone to whom the custody of such books, accounts, and documents has been committed, by reason that the same, or any of them, cannot be made forthcoming to any party or parties claiming to be interested therein. (1862 Act, Section 155.)

See also Chapter VII., "Pending Liquidations."

CHAPTER VII.

"PENDING" LIQUIDATIONS.

PERIODICAL RETURNS.

If the winding-up of a company is not concluded *within one year* after its commencement, the Liquidator of the company shall, at such intervals as may be prescribed, until the winding-up is concluded, send to the Registrar of Joint Stock Companies a statement in the prescribed form, and containing the prescribed particulars with respect to the proceedings in and position of the liquidation. (Companies (Winding-up) Act, 1890, Section 15 (1).)

Prescribed Periods at which Returns are to be made.—

The first statement, commencing at the date when a Liquidator was first appointed, and brought down to the end of twelve months from the commencement of the winding-up, shall be sent within thirty days from the expiration of such twelve months, or within such extended period as the Board of Trade may sanction; and the subsequent statements shall be sent at intervals of half a year, each statement being brought down to the end of the half-year for which it is sent. (Rule 171.)

F CONCLUSION OF WINDING-UP.

Applies to all pending liquidations (whether compulsory, under supervision, or voluntary), and for the purposes of the section the winding-up is deemed to be concluded—

(a) Compulsory.—

In the case of a company wound up by order of the Court, at the date on which the *order* dissolving the company has been *reported* by the Liquidator to the Registrar of Joint Stock Companies, *or* at the date of the order of the Board of Trade releasing the Liquidator pursuant to Section 22 of the Act of 1890.

(b) Voluntary or under Supervision.—

In the case of a company wound up voluntarily or under the supervision of the Court, at the date of the dissolution of the company, unless at such date any funds or assets of the company remain unclaimed or undistributed in the hands or under the control of the Liquidator, or any person who has acted as Liquidator, in which case the winding-up shall not be deemed to be concluded until such funds or assets have either been distributed or paid into the Companies' Liquidation Account at the Bank of England. (Rule No. 171.)

Special Considerations depending on Date of Dissolution in Voluntary Winding-up.—

The Liquidator of a company being wound up voluntarily must make a return to the Registrar of Joint Stock Companies that the final meeting (prescribed by Section 142 of the 1862 Act) has been duly held, stating the date of the meeting, and at the expiration of *three months* from the date of the registration of such return the company is deemed to be dissolved. (Companies Act, 1862, Section 143.) Therefore, if the final meeting is not held, and the fact reported to the Registrar before the expiration of *nine months* from the commencement of the winding-up, the liquidation cannot be completed *within one year*, and accounts must be sent to the Registrar under Section 15 of the 1890 Act.

FORMS OF ACCOUNT.

The forms in use at the present time (1905) are prescribed by the Rules of 1903, and forms previously in use will not be accepted, unless altered accordingly.

By Rule No. 172 (2) the statement of receipts and payments must be on Form No. 92, which is given below, and which, it will be seen, contains full instructions as to the manner in which the accounts are to be prepared:—

No. 92 (Rules 172 and 173.)

Re _____
 This is the Exhibit marked B referred to in the Affidavit of _____
 sworn before me this _____
 day of _____ 190_____

No. of _____
 Company _____ A Commissioner for Oaths.

Statement of Receipts and Payments and General Directions as to Statements.

Name of Company _____

(1) Every Statement must be on sheets 13 inches by 16 inches. Size of Sheets.
 (2) Every Statement must contain a detailed account of all the Liquidator's realisations Form and
 and disbursements in respect of the Company. The statement of realisations should Contents of
 contain a record of all receipts derived from assets existing at the date of the winding-up Statements.
 order or resolution and subsequently realised, including balance in Bank, Book Debts and
 Calls collected, Property sold, &c.; and the account of disbursements should contain all
 payments for costs and charges, or to creditors or contributories. Where property has
 been realised, the gross proceeds of sale must be entered under realisations, and the
 necessary payments incidental to sales must be entered as disbursements. These accounts
 should not contain payments into the Companies' Liquidation Account (except unclaimed
 dividends—see paragraph 5), or payments into or out of Bank, or temporary investments
 by the Liquidator, or the proceeds of such investments when realised, which should be
 shown separately:—

(a) by means of the Bank Pass Book;

(b) by a separate detailed statement of moneys invested by the Liquidator, and
 investments realised.

Interest allowed or charged by the Bank, Bank Commission, &c., and profit or loss
 upon the realisation of temporary investments should, however, be inserted in the
 accounts of realisations or disbursements, as the case may be. Each receipt and payment
 must be entered in the account in such a manner as sufficiently to explain its nature. The
 receipts and payments must severally be added up at the foot of each sheet and the totals
 carried forward from one account to another without any intermediate balance, so that the
 gross totals shall represent the total amounts received and paid by the Liquidator respectively.

(3) When the Liquidator carries on a business, a Trading Account must be forwarded Trading
 as a distinct account, and the totals of receipts and payments on the Trading Account must Account.
 alone be set out in the statement.

(4) When dividends or instalments of compositions are paid to creditors, or a return Dividends, &c.
 of surplus assets is made to contributories, the total amount of each dividend, or instal-
 ment of composition, or return to contributories, actually paid, must be entered in the
 statement of disbursements as one sum; and the Liquidator must forward separate
 accounts showing in lists the amount of the claim of each creditor, and the amount of
 dividend or composition payable to each creditor, and of surplus assets payable to each
 contributory, distinguishing in each list the dividends or instalments of composition and
 shares of surplus assets actually paid and those remaining unclaimed. Each list must be
 on sheets 13 inches by 8 inches.

(5) When unclaimed dividends, instalments of compositions or returns of surplus
 assets are paid into the Companies' Liquidation Account, the total amount so paid in should
 be entered in the statement of disbursements as one sum.

(6) Credit should not be taken in the statement of disbursements for any amount in
 respect of Liquidator's remuneration, unless it has been duly allowed by resolution of the
 Company in General Meeting, or by order of Court.

LIQUIDATOR'S STATEMENT OF ACCOUNT.

Pursuant to Section 15 of the Companies (Winding-up) Act, 1890.

Name of Company _____

Nature of Proceedings (whether wound up by)
 the Court, or under the supervision of _____
 the Court, or voluntarily)

Date of commencement of winding-up _____

Date to which Statement is brought down _____

Name and Address of Liquidator _____

THIS STATEMENT IS REQUIRED IN DUPLICATE.

ANALYSIS OF BALANCE.

	£	s	d
Total Realisations
" Disbursements
Balance

The Balance is made up as follows:—

1. Cash in hands of Liquidator	£	s	d
2. Total Payments into Bank, including Balance at date of commencement of winding-up (<i>as per Bank Book</i>) .. .. .	..	..	..
Total withdrawals from Bank .. .. .	..	..	..
Balance at Bank .. .. .	..	..	..
3. Amount in Companies' Liquidation Account	£	s	d
*4. Amounts invested by Liquidator .. .. .	..	..	..
Less Amounts realised from same .. .. .	..	..	..
Balance .. .. .	..	..	..
Total Balance as shown above £	..	..	..

[NOTE.—Full details of Stocks purchased for investment and of realisation thereof should be given in a separate statement.]

*The investment or deposit of money by the Liquidator under competent authority does not withdraw it from the operation of Sec. 15 of the Companies (Winding-up) Act, 1890, and any such investments representing money held for six months or upwards must be realised and paid into the Companies' Liquidation Account, except in the case of investments in Government Securities, the transfer of which to the control of the Board of Trade will be accepted as a sufficient compliance with the terms of the section.

NOTE.—The Liquidator should also state—

- | | | |
|---|---|---|
| (1) The amount of the estimated assets and liabilities at the date of the commencement of the winding-up. | Assets (after deducting amounts charged to secured creditors and debenture-holders) | £ |
| | Liabilities | £ |
| | Secured creditors | £ |
| | Debenture-holders | £ |
| | Unsecured creditors | £ |
-
- | | | |
|--|---|---|
| (2) The total amount of the capital paid up at the date of the commencement of the winding-up. | Paid up in cash | £ |
| | Issued as paid up otherwise than for cash | £ |
-
- | | |
|---|---|
| (3) The general description and estimated value of outstanding assets (if any). | { |
|---|---|
-
- | | |
|---|---|
| (4) The causes which delay the termination of the winding-up. | { |
|---|---|
-
- | | |
|---|---|
| (5) The period within which the winding-up may probably be completed. | { |
|---|---|

N.B.—This last page of Form No. 92 must be filled up and forwarded in duplicate, even if the Liquidator has not received or paid any moneys during the period. (See "Affidavit of no Receipts or Payments," *infra*.)

Accounts Supplemental to Account of Receipts and Payments.—

The forms of account supplemental to the Account of Receipts and Payments are analagous to those prescribed for Deed of Arrangement Returns, and are numbered by the Rules of 1903, as follows:—

Liquidator's Trading Account, No. 94.

List of Dividends or Composition, No. 95.

List of Amounts paid or payable to Contributories, No. 96.

AFFIDAVITS.

Every Statement to be Verified.—

Every statement must be in duplicate, and verified by affidavit in Form No. 93 (see *infra*). (Rule 172 (3).)

Affidavit of no Receipts or Payments.—

Where a Liquidator has not, during any period for which a statement has to be sent, received or paid any money on account of the company, he shall, at the period when he is required to transmit his statement, send to the Registrar of Joint Stock Companies the prescribed statement in the Form No. 92 in duplicate, containing the particulars therein required with respect to the proceedings in and position of the liquidation, and with such statement shall also send an affidavit of no receipts or payments in the Form No. 93. (Rule 173.)

Note.—In practice the affidavit of "no receipts or payments" is seldom required; for even in those cases where no assets have come to the Liquidator by virtue of his office he will in almost every period for which the return is required

have to make some small disbursements. Where it is unlikely that any assets will come to the Liquidator's hands, he may have obtained an undertaking before accepting office that these disbursements will be repaid to him by the parties for whom he is acting; but while receipts by way of reimbursement from such sources are not deemed to be on behalf of the estate, the payments actually made by the Liquidator are so considered.

Form No. 93 is as follows:—

No. 93.

No. of Company.....

AFFIDAVIT VERIFYING STATEMENT OF
LIQUIDATOR'S ACCOUNT, UNDER SECTION 15.

Name of Company

I.....,
of.....,
the Liquidator of the above-named Company, make oath and
say:—

That † the account hereunto annexed marked "B" contains a full and true account of my receipts and payments in the winding-up of the above-named Company, from the.....day of190 , to the.....day of190 , inclusive, † and that I have not nor has any other person by my order or for my use during such period received or paid any moneys on account of the said Company † other than and except the items mentioned and specified in the said account.

I further state that the particulars given in the annexed Form 92, marked "B," with respect to the proceedings in and position of the liquidation, are true to the best of my knowledge and belief.

SWORN at
in the County of
this day of
Before me,

190 }

† NOTE.—If no receipts or payments, strike out the words in italics.

The Affidavit is *not* required in duplicate, but it must in every case be accompanied by a statement on Form 92, in *duplicate*.

H

No Filing Fees under Section 15 of 1890 Act.—

No registration or *ad valorem* fees are payable in respect of the statements required by the 15th Section.

INSPECTION BY CREDITORS AND CONTRIBUTORIES.

Any person stating himself in writing to be a creditor or contributory of the company shall be entitled, by himself or by his agent, at all reasonable times, upon payment of the prescribed fee, to inspect the statement lodged with the Registrar, and to a copy thereof, or extract therefrom, on payment of a further fee. But any person untruthfully so stating himself to be a creditor or contributory shall be guilty of a contempt of Court, and shall be punishable accordingly on the application of the Liquidator or of the Official Receiver. (Section 15 (1), 1890 Act.)

The prescribed fees are:—

For each inspection, 2s. 6d.

For each copy or extract, 4d. per folio of 72 words or figures.

PENALTIES FOR NOT MAKING RETURN.**Liquidator liable to Fine of £50 per day.—**

If a Liquidator make default in complying with the requirements of this section, he shall be liable to a fine not exceeding £50 for each day during which the default continues. (Section 15 (2), 1890 Act.)

Company may be struck off Register.—

Where the Registrar has reasonable cause to believe that no Liquidator is acting, or that the affairs of the company are

fully wound up, and the returns required to be made by the Liquidator have not been made for a period of six consecutive months after notice by the Registrar demanding the returns has been sent by post to the registered address of the company, or to the Liquidator at his last known place of business, the Registrar may publish in the *Gazette*, and send to the company a notice that at the expiration of three months from the date of that notice the name of the company will, unless cause is shown to the contrary, be struck off the Register, and the company will be dissolved. (Companies Act, 1880, Section 7, and Companies Act, 1900, Section 26.)

UNCLAIMED FUNDS AND UNDISTRIBUTED ASSETS.

If it appears from any statement submitted under this section, or otherwise, that any Liquidator of a company has in his hands, or under his control, any money representing unclaimed or undistributed assets of the company which have remained unclaimed or undistributed for six months after the date of their receipt, the Liquidator shall forthwith pay the same to the Companies' Liquidation Account at the Bank of England. Every such Liquidator shall be entitled to the prescribed certificate of receipt for the money so paid, and that certificate shall be an effectual discharge to him in respect thereof. (1890 Act, Section 15 (3).) The amount to be paid to the Companies' Liquidation Account shall be the minimum balance of such money which the Liquidator has had in his hands or under his control during the six months immediately preceding the date to which the statement is brought down, less such part (if any) thereof as the Board of Trade may authorise him to retain for the immediate purposes of the liquidation. The amount is to be paid in within fourteen days from the date to which the statement of account is brought down. Notwithstanding anything in this rule, any moneys representing unclaimed or

undistributed assets or dividends in the hands of the Liquidator at the date of the dissolution of the company shall forthwith be paid by him into the Companies' Liquidation Account. (Rule 174.)

Liquidator to furnish Information to Board of Trade.—

Every person who has acted as Liquidator of any company, whether the liquidation has been concluded or not, shall furnish to the Board of Trade particulars of any moneys in his hands or under his control representing unclaimed or undistributed assets of the company, and such other particulars as the Board of Trade may require for the purpose of ascertaining or getting in any money payable into the Companies' Liquidation Account at the Bank of England. The Board of Trade may require such particulars to be verified by affidavit. (Rule 175.)

Board of Trade may call for Verified Accounts.—

The Board of Trade may at any time order any such person to submit to them an account, verified by affidavit, of the sums received and paid by him as Liquidator of the Company, and may direct and enforce an audit of the account. (Rule 176 (1).)

For the purposes of Section 15 of the Act of 1890, and the Rules, the Courts shall have, and, at the instance of the Board of Trade, may exercise, all the powers conferred by the Bankruptcy Act, 1883, with respect to the discovery and realisation of the property of a debtor. (Rule 176 (2).)

Application for Payment of Funds by Claimant thereto.—

Any person claiming to be entitled to any money paid into the Bank of England in pursuance of this section may apply in manner and form prescribed to the Board of Trade for payment of the same, and the Board of Trade may, on a certificate

by the Liquidator that the person claiming is entitled, make an order for payment accordingly. Any person dissatisfied with the decision of the Board of Trade in respect of any claim made in pursuance of this section may appeal to the High Court. (1890 Act, Section 15, Sub-section 5.)

See Rules 178 and 179 as to prescribed manner of application for payment.

Fees payable on Withdrawals.—

The following fees are payable in respect of unclaimed dividends, undistributed funds, and balances which have been paid into the Companies' Liquidation Account:—

(1) On every *application* to the Board of Trade for payment of money out of the Companies' Liquidation Account; and every *application* for the re-issue of a lapsed cheque or money order in respect of moneys standing to the credit of the Companies' Liquidation Account—

	s	d
Where the amount applied for does not exceed £1 ..	1	0
Where the amount applied for exceeds £1 ..	2	6

(Scale of Fees 1891, Table A.)

(2) On every *payment* of money out of the Companies' Liquidation Account, 3d. on each pound or fraction of a pound to be charged as under—

Where the money consists of unclaimed dividends, on each dividend paid out.

Where the money consists of undistributed funds or balances, on the amount paid out. (Scale of Fees, 1891, Table B.)

Summary of Principal Regulations Governing Accounts in "Pending Liquidations."

COMPANIES ACT, 1890, Section 15.

Provisions as to Returns, and Penalty for Non-compliance.

COMPANIES ACT, 1900, Section 26.

Further Penalty for not making Return.

COMPANIES (WINDING-UP) RULES, 1903.

No.

171. Pronouncement as to Date of Conclusion of Winding-up.
172. Periods at which Liquidator's Statements must be despatched, and Regulations applicable thereto.
173. Affidavit of "No Receipts or Payments."
174. Payment of Undistributed and Unclaimed Moneys into Companies' Liquidation Account.
175. Information *re* Unclaimed Funds, &c., to Board of Trade.
176. Power to Board of Trade to Call for Verified Accounts *re* Unclaimed Funds, &c.
177. Application to the Court for enforcing an Account and getting in Unclaimed Funds, &c.
178. Application for Payment out by Person entitled to Unclaimed Funds, &c.
179. Application by Liquidator for Payment out of Unclaimed Funds, &c.

The foregoing regulations are of general application and are in addition to those which are restricted to companies according as they are being wound up compulsorily, voluntarily, or subject to the supervision of the Court.

CHAPTER VIII.

ACCOUNTS OF RECEIVERS.

Two Classes of Receivers.—

RECEIVERS may conveniently be divided into two classes—(1) Those appointed by parties, and (2) those appointed by the Court. The first class includes (a) Receivers appointed by a mortgagee (where the mortgage is by deed) in the exercise of his power of sale under the Conveyancing Act, 1881; and (b) Receivers appointed under contract contained either in debenture *bonds*, or in a *trust deed* under which debentures are issued.

RECEIVERS APPOINTED BY PARTIES.

Receivers appointed by Mortgagees.—

A Receiver appointed by a mortgagee is agent for the mortgagor, and is accountable to the party appointing him, and he may also have to account to other parties beneficially interested. His account will be a record of receipts and payments, either in detail or conveniently summarised. He must apply all moneys received by him as follows:—

- (1) In discharge of all rents, taxes, rates, and outgoings whatever, affecting the mortgaged property.
- (2) In keeping down all annual sums or other payments, and the interest on all principal sums having priority to the mortgage in right whereof he is Receiver.

- (3) In payment of his commission and of premiums on fire, life, or other insurances (if any), properly payable under the mortgage deed or under the Conveyancing Act, 1881, and the cost of executing necessary or proper repairs directed in writing by the mortgagee.
- (4) In payment of the interest accruing due in respect of any principal money due under the mortgage.
- (5) The residue to the person who, but for the possession of the Receiver, would have been entitled to receive the income of the mortgaged property, or who is otherwise entitled to that property.

Remuneration of Receiver.—

The Receiver shall be entitled to retain out of any money received by him, for his remuneration, and in satisfaction of all costs, charges, and expenses incurred by him as Receiver, a commission at such rate not exceeding five per centum on the gross amount of all money received as is *specified* in his *appointment*, and, if no rate is so *specified*, then at the rate of *five per centum*, or at such *higher rate* as the Court thinks fit to allow on application made by him. (Conveyancing Act, 1881, Section 24 (6).)

Receivers for Debenture-Holders. — Rule in *Gosling v. Gaskell*.

A Receiver for debenture-holders, appointed by them or by their Trustee, will account to the debenture-holders appointing him, but in the event of a surplus he will also account to the Liquidator (if any) of the company. His account will be a record of receipts and payments, either in detail or conveniently summarised. If he carries on the business of the company he

will probably also prepare a Profit and Loss Account from time to time.

N.B.—A Receiver for debenture-holders, appointed by them or by their Trustee, is the agent of the company, whether in liquidation or not, and is *not* the agent of the debenture-holders. Therefore, in the event of the assets in the hands of the Receiver being insufficient to satisfy any liabilities which may have been incurred by him in order to enable him to carry on the business of the undertaking, the remedy of the creditors in respect of any debts incurred by the Receiver is against the company only, unless, of course, the Receiver has made himself personally responsible. (*Gosling v. Gaskell*, 1897.)

Preferential Payments.—

The Receiver should carefully note that the debts mentioned in Section 1 of the Preferential Payments in Bankruptcy Act, 1888, have priority over the claims of holders of debentures, or debenture stock, under any floating charge created by such company, and shall be paid forthwith out of any assets coming to the hands of the Receiver, whether the company is or is not in course of being wound up. (Preferential Payments in Bankruptcy (Amendment) Act, 1897, Sections 2 and 3.)

RECEIVERS APPOINTED BY THE COURT.

Periods at which Accounts are required.—Penalty for not Accounting as ordered.—

A Receiver appointed by the Court must account thereto. If he is appointed with a restricted object—*e.g.*, the prompt realisation of the assets of a partnership business pending the

decision of the Court as to the distribution of such assets—he should submit his accounts so soon as he is in a position to do so. If his appointment is an indefinite one, the order appointing him will direct the days upon which he shall periodically prepare and pass his accounts, and also the days upon which he shall pay the balances appearing due on such accounts, or such part thereof as shall be certified as properly payable by him. In the event of default in submission of accounts, and in payment of balances by the Receiver, the Court may disallow the salary claimed by him, and also, if thought fit, charge him with interest at the rate of £5 per cent. per annum upon the balances so unpaid. (Order L., Rule 18.)

Forms of Account.—

The accounts required are invariably records of receipts and payments, but the order should be carefully perused so as to ascertain what accounts the Court has demanded. For instance, there may be called for—

“An Account of Receipts and Payments of Personal Estate.”

“An Account of the Rents and Profits of the Real Estate, and of outgoings in connection therewith.”

This would not include *sales* of realty, and a separate supplementary account would therefore have to be submitted of any dealings with the capital of the real estate. In this connection it should be noted that any *large sum* in the Receiver's hands should be paid into Court *forthwith*, without waiting to pass his accounts, otherwise he may be charged with interest thereon.

The separate accounts must be prepared on the proper forms, which are two in number—one for dealings with Real Estate, and the other for Personality:—

(1) *Real Estate.*

TITLE OF ACTION.

The (to accord with Order) account of A. B. the Receiver appointed in this Cause (or pursuant to an order made in this Cause), dated the _____ day of _____ to receive the rents and profits of the real estate (and to collect and get in the outstanding personal estate) of C. D., the testator (or intestate) in this Cause named from the _____ day of _____ to the _____ day of _____

REAL ESTATE RECEIPTS.

No. of Item	Date when Received	Tenants' Names	Description of Premises	Annual Rent	Arrears due at.....	Amount due at.....	Amount Received	Arrears Remaining due	Observations
See note (3) below	See note (1) below								See note (2) below

Note (1).—One year's rent, although paid half-yearly, quarterly, or monthly, should be entered in *one item*; the date of the latest receipt being entered in this column.

Note (2).—In the *first* account of rents the Receiver must state in the column for observations *how each tenant holds*; and every alteration should be noted in subsequent accounts; in this column he should also enter any remarks he may think proper to make as to (1) arrears of rent, (2) state of repairs or otherwise.

Note (3).—The order in which the properties are entered in the first account should be followed in all subsequent accounts.

PAYMENTS AND ALLOWANCES ON ACCOUNT OF REAL ESTATE.

No. of Item	Date of Payment or Allowance	Names of Persons to whom paid or allowed	For what Purpose paid or allowed	Amount

Note.—Small items of the same class, such as petty disbursements in managing a business, should be summarised for each month, or, if large, for each week, and the Petty Cash Book should be produced on passing the accounts. Weekly or monthly salaries and weekly wages should be summarised in like manner, and Salaries and Wages Books produced. When the accounts are heavy it is advisable to obtain directions at Chambers as to their form and contents before preparing them.

(2) *Personal Estate.*

RECEIPTS ON ACCOUNT OF PERSONAL ESTATE.

No. of Item	Date when Received	Names of Persons from whom Received	On what Account Received	Amount Received

PAYMENTS AND ALLOWANCES ON ACCOUNT OF PERSONAL ESTATE.

No. of Item	Date when paid or allowed	Names of Persons to whom paid or allowed	For what purpose paid or allowed	Amount paid or allowed

See note at foot of form relating to Payments on account of Real Estate.

SUMMARY.

	£	s	d	£	s	d
Amount of Balance due from Receiver on account of Real Estate on last account.. .. .						
Amount of Receipts on the above account of Real Estate ..						
Balance of last account paid into Court ..	£		d			
Amount of Payments and Allowances on the above account of Real Estate						
Amount of Receiver's Costs of passing this account as to Real Estate						
Balance due from the Receiver on account of Real Estate ..	£					
Amount of Balance due from Receiver on last account of Personal Estate.. .. .						
Amount of Receipts on the above account of Personal Estate						
Balance of last account paid into Court ..	£	s	d			
Amount of Payments and Allowances on the above account of Personal Estate						
Amount of Receiver's Costs of passing this account as to Personal Estate						
Balance due from the Receiver on account of Personal Estate ..	£					

The following regulations should be observed in preparing the accounts:—

(1) The accounts and other papers are to be written upon foolscap paper bookwise, unless the nature of the document renders it impracticable. (Order 66, Rule 2.)

(2) The items on each side of the account are to be numbered consecutively. (Order 33, Rule 4.)

(3) The account is to be referred to in the affidavit as an exhibit, and must be so marked by the Commissioner administering the oath.

(4) No erasures are to be made in the accounts, and all alterations must be initialled by the Commissioner. (Order 38, Rule 22.)

(5) The Receiver's costs are to be brought in as a separate bill, which, after taxation and allowance, will be included in his disbursements.

(6) Vouchers for sums of 40s. and upwards are required, and will be initialled by the proper officer of the Court upon production. If, however, any party to the cause takes objection to any particular voucher, the affidavit or oral evidence of the person receiving the money, or other proof of his signature, may be required. Vouchers must, of course, be duly stamped.

(7) Sums under 40s. may be substantiated by the oath of the accounting party, but he must mention to whom, for what, and when, the amounts were paid.

Procedure on Passing Accounts.—

The Receiver leaves at the Judge's Chambers his accounts, verified by affidavit, and an appointment is then obtained by the person having conduct of the action. (Order L., Rule 20.)

When the account is passed it is entered by the Receiver or his solicitor in duplicate books, and the entry in each book verified by his affidavit, referring to the account as an exhibit. The books, with office copy of the affidavit, are left at the Judge's Chambers, and a memorandum of the allowance of the account is written at the foot of it and signed by the chief clerk. One of these books, called the "Receiver's Book," is kept at Chambers until the completion of the Receivership, when it is deposited at the Central Office. The other is delivered back from time to time to the Receiver.

The Chief Clerk's certificate is made when the account is passed, stating the amount due from the Receiver, and the day on which it is to be paid into Court. (But see note above as to payment into Court forthwith of *large* sums.)

Summary of Principal Regulations Governing Receivers' Accounts.

As regards Receivers appointed by Parties :—

CONVEYANCING AND LAW OF PROPERTY ACT, 1881.

- Section 24. (1) Mode of appointment of Receiver.
 (2) Receiver to be Agent for Mortgagor.
 (6) Rate of Remuneration.
 (7) Receiver to keep insured (if directed by Mortgagor).
 (8) Application of Moneys received by Receiver.

PREFERENTIAL PAYMENTS IN BANKRUPTCY (AMENDMENT) ACT, 1897.

- Section 2. Priority of "preferential debts" over debenture-holders' claims (if company is in course of being wound up).
 3. Priority of "preferential debts" over debenture-holders' claims (if company is *not* in course of being wound up).

As regards Receivers appointed by Court :—

PREFERENTIAL PAYMENTS IN BANKRUPTCY (AMENDMENT) ACT, 1897.

The same provisions in regard to debenture-holders' claims, whether Receiver appointed by parties or by Court. (See above.)

THE RULES OF THE SUPREME COURT, 1883.

- Order XXXIII. Rule 4. Accounts to be verified by affidavit—
 items to be numbered consecutively.
 „ XXXVIII. „ 22. Alteration in Accounts to be verified.
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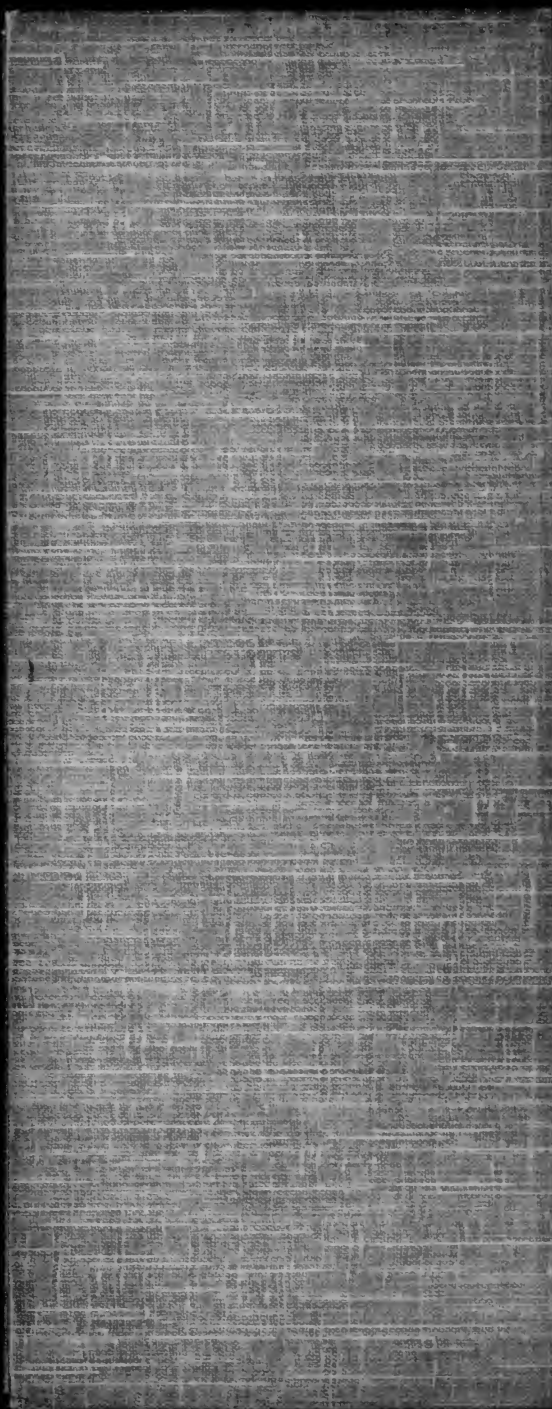
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